Foreign, Comparative & International Law: Selected Resources

Prepared for Law B599 J Comparative Constitutional Law, Spring 2009, Professor Lawrence Repeta

By Lori Fossum, Reference Librarian, UW School of Law Gallagher Law Library, March 31, 2009

I. Introduction

Research Strategies

- 1. Begin with Secondary Sources
- 2. Find Primary Sources
- 3. Ask for help

Help with Research

1. Library

Contact us in person, phone (206)543-6794, or e-mail (lawrefst@u.)

Visit our Website: http://lib.law.washington.edu/

- -Use our catalog, "Marian" or UW Main Libraries' catalog
- -Consult our research guides, e.g., Guide to Foreign Call Numbers

2. Internet

Search for research guides and tutorials from reputable sources.

3. Take a Specialized Research Class

e.g., INTERNATIONAL AND FOREIGN LAW RESEARCH - LAW E579

II. Types of Law

A. Definitions

International Law

"The legal system governing the relationships between nations; more modernly, the law of international relations, embracing not only nations but also such participants as international organizations and individuals (such as those who invoke their human rights or commit war crimes). -- Also termed public international law; law of nations; law of nature and nations; jus gentium; jus gentium publicum; jus inter gentes; foreign-relations law; interstate law; law

between states (the word state, in the latter two phrases, being equivalent to nation or country)." Black's Law Dictionary, 8th Edition

Customary International Law

"International law that derives from the practice of states and is accepted by them as legally binding. • This is one of the principal sources or building blocks of the international legal system." Black's Law Dictionary, 8th Edition

Public International Law

"See INTERNATIONAL LAW." Black's Law Dictionary, 8th Edition

Private International Law

"International conflict of laws. • Legal scholars frequently lament the name "private international law" because it misleadingly suggests a body of law somehow parallel to public international law, when in fact it is merely a part of each legal system's private law. -- Also termed international private law; jus gentium privatum; intermunicipal law; comity; extraterritorial recognition of rights." Black's Law Dictionary, 8th Edition

Foreign Law

"1. Generally, the law of another country." Black's Law Dictionary, 8th Edition

Comparative Law

"The scholarly study of the similarities and differences between the legal systems of different jurisdictions, such as between civil-law and common-law countries. -- Also termed comparative jurisprudence. See INTERNATIONAL LAW." Black's Law Dictionary, 8th Edition

Transnational Law

"1. The amalgam of common principles of domestic and international law dealing esp. with problems arising from agreements made between sovereign states and foreign private parties." Black's Law Dictionary, 8th Edition

III. Legal Systems of the World

1. Definitions:

Common Law

"The body of law derived from judicial decisions, rather than from statutes or constitutions." Black's Law Dictionary, 8th Edition 3

Civil Law

"One of the two prominent legal systems in the Western World, originally administered in the Roman Empire and still influential in continental Europe, Latin America, Scotland, and Louisiana, among other parts of the world; ROMAN LAW." Black's Law Dictionary, 8th Edition

Customary Law

"Law consisting of customs that are accepted as legal requirements or obligatory rules of conduct; practices and beliefs that are so vital and intrinsic a part of a social and economic system that they are treated as if they were laws." Black's Law Dictionary, 8th Edition

Religious Law

Laws derived from religious texts and traditions.

Mixed Law Systems

Some examples: Civil and Common; Civil and Customary; Civil and Islamic.

2. Sources on Legal Systems:

Websites

- University of Ottawa, <u>World Legal Systems</u> [http://www.juriglobe.ca/]
 Briefly describes the major legal systems found in the world today. See map.
- Law Library of Congress, Guide to Law Online: <u>Nations of the World</u>
 [http://www.loc.gov/law/help/guide.php]
 - Links to websites for constitutions and the executive, judicial, and legislative branches of government for hundreds of countries. Not all materials are in English. Country-specific sites often provide research guides.
- CIA, World Factbook [https://www.cia.gov/library/publications/the-world-factbook/]

An authoritative source that describes the government, people, geography, and other topics for scores of countries around the world. Major updates are made annually; minor updates are made throughout the year.

Books

- *** Foreign Law Guide: Current Sources of Codes and Basic Legislation in Jurisdictions of the World, Also in print 1989-2007 K38.R49 (Classified Stacks) (aka "Reynolds and Flores") [http://www.foreignlawguide.com/ip/]
- Law and Judicial Systems of Nations, 4th ed. World Jurist Association. <u>K583.W67</u> 2002 (Reference Office).

- Legal Systems of the World: A Political, Social, and Cultural Encyclopedia, 2002. 4 vols. <u>K48.L44</u> 2002 (Reference Area & Suzzallo).
- Modern Legal Systems Cyclopedia, 1984-2005, 21 vols. <u>K530.M63</u> 1984 (Reference Area)

IV. Comparative Law Research: Sources

Websites

- Max Planck Institute for Comparative Public Law and International Law: A scholarly Research Institute founded in Berlin in 1924 and re-established in 1949 by the Max Planck Society. This site hosts an articles library. [http://www.mpil.de/ww/en/pub/library/catalogues_databases/doc_of_articles/comp_law.cfm]
- World Legal Information Institute: WorldLII aims to provide free, independent and non-profit access to worldwide law. It is a joint initiative of nine university-based Legal Information Institutes (e.g., the Australasian Legal Information Institute). The WorldLII site catalogs web resources by jurisdiction and by topic. It also includes hundreds of searchable databases for example, caselaw from dozens of jurisdictions. [http://www.worldlii.org/]
- Guide to Law Online, from the US Law Library of Congress, is an annotated guide to sources of information on government and law for the nations of the world. It includes links to guides in the GlobaLex series from NYU Law. [http://www.loc.gov/law/help/guide.php]
- GlobaLex, "A series of materials developed by the Hauser Global Law School Program at NYU School of Law, is committed to the dissemination of high-level international, foreign, and comparative law research tools in order to accommodate the needs of an increasingly global educational and practicing legal world." [http://www.law.nyu.edu/global/researchtools//ECM_DLV_013559]
 - o Comparative Law Research
- GLIN, the Global Legal Information Network at the US Library of Congress. This is a database of laws, regulations, judicial decisions and other legal resources contributed by governmental agencies and international organizations. Official texts are contributed in the original language, and English language summaries added. Unfortunately, free access is only enabled for about 24 jurisdictions. [http://www.glin.gov/search.action]

Books

Elgar Encyclopedia of Comparative Law, K48 .E42 2006 (Classified Stacks; Search Sharelaw)

Subject search under the LOC Subject Heading: comparative law encyclopedias

<u>International Encyclopaedia of Laws</u>. Sub-national Constitutional Law / editors, André Alen, G.A. Tarr, R.F. Williams. Available via ShareLaw to UW Law community.

International Encyclopedia of Comparative Law, 1973-1985 K530.M63 (Reference Area)

Journals

- American Journal of Comparative Law 1952 (American Society of Comparative law); Also on Westlaw (AMJCL), coverage from 1994;
- <u>Electronic Journal of Comparative Law</u> 1997- (Universities of Maastricht, Tilburg and Utrecht, Netherlands)
- International and Comparative Law Quarterly 1952- (British Institute of International and Comparative law)
- Journal of Comparative Law 2006- (Association for Comparative Legal Studies Ltd.) Edited by Nicholas Foster of the School of Oriental and African studies, University of London. (Some content available free online.)
- Oxford University Comparative Law Forum 2000- An electronic journal and discussion forum edited by members of the Oxford Law Faculty.

Selected Journals Available on Westlaw: (Always check scope notes for coverage)

ILSA Journal of International & Comparative Law (ILSAJICL)

New York Law School Journal of International and Comparative Law (NYLSJICL)

Temple International & Comparative Law Journal (TMPICLJ)

American Journal of Comparative Law (AMJCL)

Chicago Kent Journal of International & Comparative Law (CHIKJICL)

Arizona Journal of International & Comparative Law (AZJICL)

Duke Journal of Comparative & International Law (DUKEJCIL)

Selected Journals Available on Lexis (Always check the coverage notes)

Source: Lexis.com's <u>Searchable Directory</u> of Online Sources

American Journal of Comparative Law

Annual Survey of International & Comparative Law

Arizona Journal of International and Comparative Law

Boston College International and Comparative Law Review

Cardozo Journal of International and Comparative Law

Duke Journal of Comparative and International Law

Georgia Journal of International and Comparative Law

Hastings International and Comparative Law Review

ILSA Journal of International & Comparative Law

Databases

Consult the databases listed under "Find Legal Databases" on our law library http://lib.law.washington.edu/]

V. Foreign Law Research: Sources

Depending on what kind of law you're researching, you'll look for different sources of law. For example, in international law, treaties are an important source of law. In foreign legal systems, sources of law may include codes, constitutions, treaties, cases, regulations, religious texts, writings of legal scholars, statutes, or customs.

Constitutions

Websites

<u>Constitution Finder</u>, University of Richmond [http://confinder.richmond.edu/]

<u>FOREIGN GOVERNMENTS Constitutions, Laws, and Treaties</u>, University of Michigan Documents Center [http://www.lib.umich.edu/govdocs/forcons.html]

<u>World Wide Constitutions</u> (122 in English), source: The Constitutional Court of the Republic of Armenia [http://www.concourt.am/english/legal_resources/world_constitutions/index.htm]

<u>International Constitutional Law Project</u>: one of the most reliable sources on the Internet. ICL provides English translations of and other textual material related to constitutional documents. It cross-references those documents for quick comparison of constitutional provisions. [http://www.servat.unibe.ch/law/icl/index.html]

Books

Constitutions of the Countries of the World, <u>K3157.A2 B58</u> (Reference Area) 22 vols. Latest update received in February 2009.

Constitutions of the World, K3165.M33 2001 (Suzzallo Reference)

Encyclopedia of World Constitutions, <u>K3157.E5E53</u> 2007 (Suzzallo Reference)

Journals

Bulletin on Constitutional Case-Law, 1993-date.

[http://codices.coe.int/NXT/gateway.dll?f=templates&fn=default.htm] or In print: **KJC4444.52.B85**, (**Classified Stacks**).

<u>International Journal of Constitutional Law</u>, included in several databases, 2003-date. In print: (Reference Area, Compact Stacks).

Codes & Legislation

Websites

- GlobaLex, from NYU Law [http://www.nyulawglobal.org//Foreign_Law_Research1.htm]
- World Legal Information Institute, WorldLII aims to provide free, independent and non-profit access to worldwide law. It is a joint initiative of nine university-based Legal Information Institutes (e.g., the Australasian Legal Information Institute). The WorldLII site catalogs web resources by jurisdiction and by topic. It also includes hundreds of searchable databases for example, caselaw from dozens of jurisdictions. [http://www.worldlii.org/]

Books/Electronic Resources

***Foreign Law Guide: Current Sources of Codes and Basic Legislation in Jurisdictions of the World, [http://www.foreignlawguide.com/ip/]. Also in print 1989-2007 K38.R49 (Classified Stacks) (aka "Reynolds and Flores")

<u>Foreign & International Law Resources Database</u>, HeinOnline [http://www.heinonline.org/HOL/Index?collection=intyb]

*** International Legal Materials, included in several databases. Also in print KZ64 .158 (Reference Area and Reference Office). A *very* useful and important source: new materials often appear here first.

Martindale-Hubbell International Law Digest, 1993-2006, in print. (On CD-ROM 2008), and on Lexis*. **KF190.M35** (**Compact Stacks**). Provides summaries of law of select foreign countries--It is more properly described as a *foreign* law digest.

- * <u>LexisNexis</u> is a good source for the laws of many different countries. Primary law materials are available for the countries listed. Extent of coverage varies from country to country. To access these files, select Legal > Find Laws by Country or Region. Coverage varies.
- * <u>Westlaw</u> is expanding its coverage of foreign law. Westlaw also contain news and business information. From the Database Directory, select "International /Worldwide Materials" and then "Databases Listed Alphabetically by Country or Region."

Periodical Indexes/Journals Databases

The two main Anglo-American periodical indexes, **Current Index to Legal Periodicals (CILP)** and **LegalTrac** (called **LRI** by Westlaw & Lexis) are worth checking, because articles sometimes provide

comparisons with foreign legal systems. Both indexes can be accessed electronically on Westlaw & Lexis and via our database menu.

The **Legal Journals Index**, (**LJI**), available via Westlaw, indexes UK, Irish, and European legal periodicals. Its coverage of EU issues often picks up articles not indexed in ILP or LegalTrac.

The **Index to Foreign Legal Periodicals** (IFLP) is also available on Westlaw and via our <u>database menu</u> (coverage from 1985-2008/2009). Most periodicals indexed in this database are in languages other than English, but many articles have English abstracts. Moreover, because the index terms are in English, researchers can identify relevant articles even if they do not speak the language of the articles.

Selected Westlaw Journal Index Databases:

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United Kingdom Human Rights - Legal Journals Index (UKHR-LJI)
Legal Journals Index (LJI)
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Index to Legal Periodicals (ILP)

Legal Resource Index (LRI)

Current Index to Legal Periodicals (CILP)

Index to Foreign Legal Periodicals (IFLP)

International Legal Materials Cumulative Index (ILM-INDX)

Journals Indexed (JI-INDX)

Lexis:

Index to Legal Periodicals

Legal Resource Index

UK Law Journal Index

Cases & Decisions

Websites

Constitutional Courts (Links), Council of Europe

[http://www.venice.coe.int/site/dynamics/N_Links_ef.asp]

Supreme Court Decisions from Around the World, Global Courts [http://www.globalcourts.com/]

<u>World Legal Information Institute</u>, the Advanced Search lists databases of cases and decisions [http://www.worldlii.org/]

Print Materials

Bulletin on Constitutional Case-Law. Leading Cases. (2002-) <u>KJC4444.52.B85 L433</u> (Classified Stacks). Published by the European Court of Human Rights.

Bulletin on Constitutional Case-Law. Basic Texts (1995-) KJC4444.52 .B852 (Classified Stacks).

Bulletin on Constitutional CaseLaw KJC4444.52 .B85 (Classified Stacks).

VI. International Law Research: Sources

Depending on what kind of law you're researching, you'll look for different sources of law. For example, in international law, treaties are an important source of law.

Treaties

See the Gallagher <u>Treaties Guide</u> to this important source of law: [http://lib.law.washington.edu/ref/treaties.shtml]

<u>UN Treaties Collection</u> Multilateral Treaties Deposited with the Secretary-General [http://treaties.un.org/Pages/ParticipationStatus.aspx]

Treaty and Agreements Library, HeinOnline

The Treaties and Agreements Library contains ALL of the U.S. treaties, whether currently in force, expired, or not yet officially published. This library is the world's largest and most complete online collection of U.S. treaties and agreements. It includes such prominent collections as the United States Treaties and Other International Agreements set ("The Blue Set"), as well as famous sets from Bevans, Miller, Malloy and others. This library is divided into five sections: Official Treaty Publications; Unofficial Treaty Publications; Treaty Guides and Indexes; Treaties, Books and Texts; and Important Treaties and Agreements Links.

Intergovernmental Organizations (IGOs)

See the Gallagher <u>Intergovernmental Organizations Guide</u>:

[http://lib.law.washington.edu/ref/igos.shtml]

Websites

<u>Electronic Information System for International Law</u> (EISIL). Developed and maintained by the American Society of International Law (ASIL), a nonprofit, nonpartisan, educational membership organization founded in 1906 and chartered by Congress in 1950 "to foster the study of international law and to promote the establishment and maintenance of international relations on the basis of law and justice." [http://www.eisil.org/]

Europa, Gateway to the European Union, [http://eur-lex.europa.eu/en/treaties/index.htm]

Max Planck Institute

[http://www.mpil.de/ww/en/pub/library/catalogues_databases/doc_of_articles/pil.cfm]

Books/Electronic Resources

<u>Treaties in Force</u>, [http://www.state.gov/s/l/treaty/treaties/2007/index.htm]. Also in print **KZ235 .T74** (**Reference Area** and **Reference Office**).

<u>International Legal Materials</u>, The ILM has been published since 1962. It is a useful source for draft treaties, new, or unusual treaties. It is also available in electronic format on Lexis and Westlaw. [http://www.heinonline.org/HOL/Index?index=journals/intlm&collection=journals]

International Legal Research in a Nutshell (2008), KZ1234 .H64 (Reference Area & Reference Office), provides a basic introduction to public international law including research sources.

International Law Reports (1946 - present). KZ199.I58 (Classified Stacks), formerly Annual Digest of International Law Cases, 1919 – 1945: a useful source for locating national court decisions on matters of international law. This publication provides decisions from a wide range of national and international tribunals. It includes a table of cases arranged alphabetically by party, court and country, and a digest.

Public International Law in a Nutshell (3d ed. 2002), <u>KZ1242 .B84</u> **2007** (**Reference Area**), provides a basic introduction to public international law including research sources.

The **Westlaw** database Federal International Law (**FINT-__**) contains U.S. cases dealing with international law. Use CS for all, SCT for US Supreme Court, CTA for Circuit Court of Appeals, DCT for District Court, CIT for Customs and International Trade.

The **LexisNexis** library (International Law > Cases > US Federal & Special Court Cases Combined) contains U.S. cases dealing with international law.

Directories

Encyclopedia of Associations: International Organizations, AS2 .E53 2009 (Suzzallo Ready Ref.) (Grant J. Eldridge, ed.). Includes extensive listings of organizations, their stated purpose, publications, addresses, etc. Entries are arranged by type of organization, with a separate name index. 2007 edition at HS17 .G334 (Reference Office).

Yearbook of International Organizations, <u>JZ4836 .Y43</u> (**Reference Office**). This includes acronyms and descriptions of each organization, addresses, telephone and fax numbers, as well as detailed information about the organization's structure, purpose and activities. Links to selected international organizations from the Yearbook are also available.

Journals

Many journals cover international law-related topics and issues. Search a periodicals index as described on page 7 (part V), above. 11

VII. International Human Rights Law: Sources

Research Guides

NYU's International Human Rights Research Guide [http://www.nyulawglobal.org//Human_Rights1.htm]

ASIL's Guide to Electronic Resources for International Law: <u>Human Rights</u> [http://www.asil.org/humrts1.cfm]

United Nations

Treaty Sources

Websites

<u>UN Treaties Collection</u> Multilateral Treaties Deposited with the Secretary-General [http://treaties.un.org/Pages/ParticipationStatus.aspx]

Chapter IV: <u>Human Rights</u> treaties
 [http://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en]

Harvard Law Library's <u>Guide on How to find a treaty without a citation</u>: [http://www.law.harvard.edu/library/research/guides/int_foreign/finding-treaties-no-citation--ils.html]

("Since there exists no complete collection of treaties in print or online, you must often conduct your research with a certain amount of creativity and perseverance. It is important to note that treaties may be referred to by variety of names (Agreements, Conventions, Protocols, Memorandums of Understanding, Exchanges of Letters, et cetera).")

Books

Selected International Human Rights Instruments; and, bibliography for research on international human rights law, <u>K3240.4 .N392</u> **2001 Classified Stacks**

United Nations Reference Guide in the Field of Human Rights / Centre for Human Rights, <u>JC571 .U57</u> 1993 Reference Office

Databases

<u>Treaty and Agreements Library</u>, HeinOnline

The Treaties and Agreements Library contains ALL of the U.S. treaties, whether currently in force, expired, or not yet officially published. This library is the world's largest and most complete online collection of U.S. treaties and agreements. It includes such prominent collections as the United States Treaties and Other International Agreements set ("The Blue Set"), as well as famous sets from Bevans, Miller, Malloy and others. This library is divided into five sections: Official Treaty Publications; Unofficial Treaty Publications; Treaty Guides and Indexes; Treaties, Books and Texts; and Important Treaties and Agreements Links.

Other UN information

Websites

Human Rights A listing from the UN website. Nice research guide. [http://www.un.org/rights/]

Member states A listing from the UN website. [http://www.un.org/members/]

<u>United Nations Documents</u>, Human Rights Library, University of Minnesota [http://www1.umn.edu/humanrts/un-orgs.htm]

International Court of Justice (ICJ)- The ICJ is the principal judicial organ of the United Nations (UN) and acts as a world court. It was established in June 1945 by the Charter of the United Nations and began work in April 1946. The seat of the Court is at the Peace Palace in The Hague (Netherlands). [http://www.icj-cij.org/]

The full text of all decisions of the International Court of Justice is available in **Westlaw**. The database is INT-ICJ.

Books

Search the <u>catalog</u> by subject heading(s)

Journals

Search a periodicals index or the electronic journals list

European Court of Human Rights

Websites

Council of Europe [http://www.coe.int/T/e/Com/about_coe/]

European Court of Human Rights [http://www.echr.coe.int/echr/]

Search for decisions, judgments, and advisory opinions

- Westlaw (EHR-RPTS) full text decisions from the ECHR, selected decisions and reports from the European Commission of Human Rights and settlements and resolutions of the Committee of Ministers. Coverage begins in 1960.
- The <u>Lexis</u> library (**EURCOM; CASES**) contains decisions of the Court.

Research Guide to European Human Rights System, Columbia University

Books/Journals

Search the catalog by subject heading(s); Search a periodicals index by subject/key word

Supervision of the Execution of Judgments of the European Court of Human Rights / Council of Europe, Committee of Ministers, <u>KJC5138.A15 A2</u> 2007 (Classified Stacks)

Other Sources for Int'l Human Rights Law Research

Websites

Harvard Law Library's Guide to Human Rights Websites

[http://www.law.harvard.edu/library/research/guides/int_foreign/web-resources/human-rights.html]

<u>University of Minnesota Human Rights Library</u>, [http://www1.umn.edu/humanrts/research/ratification-index.html]

EISIL, [http://www.eisil.org/index.php?sid=292156296&t=sub_pages&cat=185]

NYU's International Human Rights Research Guide

[http://www.nyulawglobal.org/globalex/Human_Rights1.htm]

International Criminal Court (ICC): The International Criminal Court (ICC), not part of the United Nations system but instead governed by the Rome Statute, is the first permanent, treaty based, international criminal court established to help end impunity for the perpetrators of the most serious crimes of concern to the international community. It's also based in The Hague. [http://www.icc-cpi.int/Menus/ICC/Home]

Books/Journals/databases

Search the catalog and journals databases

Consult HeinOnline's Foreign & International Law Resources Database

[http://www.heinonline.org/HOL/Index?collection=intyb]. See the Human Rights Case Digest

VIII. Other Resources

Abbreviations

Bieber's Dictionary of Legal Abbreviations (5th ed.) <u>KF246 .B46</u> **2001** (Reference Office, Classified Stacks). This work includes English-language abbreviations for many foreign agencies, organizations, periodicals and other publications.

<u>Cardiff Index to Legal Abbreviations</u>. This website allows you to search for the meaning of abbreviations for English language legal publications from the British Isles, the Commonwealth and the United States, including those covering international and comparative law. [http://www.legalabbrevs.cardiff.ac.uk/]

World Dictionary of Legal Abbreviations. K85.K3 1991- (Reference Office & Classified Stacks). This dictionary, which is regularly supplemented, includes abbreviations in English, French, German, Hebrew, Italian, Portuguese and Spanish. It can be difficult to use because you need to know what language an abbreviation is in before you can look it up.

Citation Sources

The Bluebook: a uniform system of citation, KF245.U5 (Reference, Reference Office, Classified Stacks)

Foreign Materials, Rule 20 and Table 2 (Foreign Jurisdictions)

International Materials, Rule 21 and Table 3 (IGOs) and Table 4 (Treaties)

Guide to Foreign and International Legal Citations, <u>K89.G84</u> 2006 (Reference Office), and online [https://its.law.nyu.edu/jilpgfilc/]. You must register to download the 298-page guide (PDF).

Other Research Guides

Harvard Law School Library's Foreign & International Law Resources:

An Annotated Guide to Web Sites Around the World

[http://www.law.harvard.edu/library/research/guides/int_foreign/web-resources/index.html]

Researching International Case Law Guide, accessible at:

[http://www.okcu.edu/law/lawlib/pdfs/guide_caselaw.pdf]

Tutorials

CALL International Law Lessons, [http://www2.cali.org/]. Ask us in the Ref. Office for code.

<u>International Legal Research Tutorial</u> from Duke Law Library and U-C Berkeley Law Library, [http://www.law.duke.edu/ilrt/]

<u>International and Foreign Law Tutorial</u>, Chicago Kent College of Law Library, [http://library.kentlaw.edu/tutorials/IntlLaw_Tutorial/Intro.htm]