This guide is designed to enable you to do research in international law. It will introduce you to the basic concepts, institutions, texts, and research tools and give you a framework to knit these together as needed to solve individual problems. Underlying the guide is the principle that in order to understand what you need to find, you have to understand the institutions which are in a position to "create" international law. The guide is not intended to teach substantive law, but the framework within which the law is disseminated.

Contents

1 Background
  1.1 Definitions of International Law
  1.2 Institutions Involved in the Process
  1.3 Identification of Authoritative Texts
  1.4 How International Law Texts are Created

2 General Introductory Materials
  2.1 Dictionaries
  2.2 Encyclopedias
  2.3 Key Treatises
  2.4 Recent Research Guides

3 Treaties and Other Forms of International Agreements
  3.1 Publication of U.S. Treaties
  3.2 Treaty Citation
  3.3 Approaching Treaty Material
  3.4 Phone Numbers

4 Custom and State Practice
  4.1 Breadth and Context
  4.2 Historical

5 General Principles of Law

6 Case Law and Secondary Materials
  6.1 International Courts
  6.2 The International Court of Justice
  6.3 European Courts
    6.3.1 The Court System of the European Union
    6.3.2 The European Court of Human Rights, Strasbourg
  6.4 Other International Courts
Background

The background material provides a context for learning about the specific tools used in International Law research.

Definitions of International Law

Public International Law is the law of the political system of nation-states. It is a distinct and self-contained system of law, independent of the national systems with which it interacts, and dealing with relations which they do not effectively govern. Since there is no overall legislature or law-creating body in the international political system, the rules, principles, and processes of international law must be identified through a variety of sources and mechanisms. This can make international law appear difficult to pin down. Students and scholars in the United States often use the Restatement of the Law (Third), the Foreign Relations of the United States as a guide to identifying international law as applied in the US.

*ALI Restatement 3rd, Section 101, International Law Defined:*

"International law, as used in this Restatement, consists of rules and principles of general application dealing with the conduct of states and of international organizations and with their relations inter se, as well as with some of their relations with persons, whether natural or juridical."

From the *Oxford English Dictionary:*

"[I]nternational law, the law of nations, under which nations are regarded as individual members of a common polity, bound by a common rule of agreement or custom; opposed to municipal law, the rules binding in local jurisdictions."

Institutions Involved in the Process
As international law developed in the 17th and 18th centuries, it was widely understood that it was a tool for relations between nation-states. Individuals had no role in the process which resolved disputes between states except as representatives of the states, such as diplomats or naval officers. The classic 'player' is the sovereign body of the nation in whatever form it takes for a given state. It can be the President, Prime Minister, King, or Queen, but it is now often the bureaucratic representation of the sovereign power, such as the State Department, the Foreign Ministry, the military, etc. Until the middle of the 20th Century, international law consisted primarily of custom. More recently, customary international law has been increasingly codified.

While that part of the governmental entity charged with foreign relations will have the lead role in developing international law for the country, in practice each subunit of a government has some ability to create what can be recognized as International Law. In the United States, for example, the Executive Branch (acting through the State Department) may sign a treaty, but the President ratifies it with the "advice and consent" of the Senate, and the Congress as a whole may pass laws implementing it. In addition, administrative agencies can make and enforce regulations implementing the treaty and the statutes, and the courts can interpret any of the above and use non-treaty related international law as an exercise of their judicial power.

On the global scale, international organizations such as the United Nations and the European Union have become extremely important as forums for creating international law. The most recent development in this area has been the recognition that there is a role, within the sphere of public international law, for individuals to pursue remedies against sovereign nations.

**Identification of Authoritative Texts**

The *Charter of the United Nations* establishes the International Court of Justice (ICJ) as the principal judicial organ of the UN. The treaty which establishes the ICJ is informally known as the "Statute."

Article 38 of this "Statute" furnishes an indirect answer to the question: What are the texts of international law? The article is written in terms of what sources the court will use in order to resolve a dispute. These sources include treaties, customary law, case law, academic writings, and general principles of law. Article 38 reads:

"1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:

a. international conventions, whether general or particular, establishing rules expressly recognized by the contesting states;
b. international custom, as evidence of a general practice accepted as law;
c. the general principles of law recognized by civilized nations;
d. subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

2. This provision shall not prejudice the power of the Court to decide a case *ex aequo et bono*, if the parties agree thereto."

A different presentation of these ideas can be found in the *Restatement of the Law 3d: Foreign Relations Law of the United States*, Articles 102 (Sources of International Law) and 103 (Evidence of International Law).

§ 102 **Sources of International Law**
(1) A rule of international law is one that has been accepted as such by the international community of states
(a) in the form of customary law;
(b) by international agreement; or
(c) by derivation from general principles common to the major legal systems of the world.

(2) Customary international law results from a general and consistent practice of states followed by them from a sense of legal obligation.

(3) International agreements create law for the states parties thereto and may lead to the creation of customary international law when such agreements are intended for adherence by states generally and are in fact widely accepted.

(4) General principles common to the major legal systems, even if not incorporated or reflected in customary law or international agreement, may be invoked as supplementary rules of international law where appropriate.

§ 103 Evidence of International Law

(1) Whether a rule has become international law is determined by evidence appropriate to the particular source from which that rule is alleged to derive (§ 102).

(2) In determining whether a rule has become international law, substantial weight is accorded to
(a) judgments and opinions of international judicial and arbitral tribunals;
(b) judgments and opinions of national judicial tribunals;
(c) the writings of scholars;
(d) pronouncements by states that undertake to state a rule of international law, when such pronouncements are not seriously challenged by other states.

Since the adoption of the ICJ statute in 1946, the post World War II growth of a wide variety of Inter-Governmental Organizations (IGOs) has injected the work product of these IGOs into the mix as well.

How International Law Texts are Created

The ICJ statute shows that International Law does not have an easily identifiable "law-giver". Under these circumstances, how do we find out if something is a rule in international law? What is it we are looking for? The ways norms are identified as international "law" include: agreements negotiated by the affected parties, deference to a third-party decision-maker, academic persuasion and consensus, and custom (state practice and the opinion that the practice is dictated by a legal obligation).

It is important to remember that there are two allied meanings of the word "source". One sense is related to the origins of the relevant, substantive norms and principles. The other sense is grounded in identifying the actual texts involved in the process.

Agreements Negotiated by the Affected Parties

Treaties
Enactments by bodies established by treaties
Resolutions of the United Nations General Assembly
Directives of the European Union Commission
Similar enactments by regional or subject-specific organizations
Resolution of a dispute through mediation

**Deference to a Third Party Decision-Maker**

- Case Law
- International Courts of General and Limited Jurisdiction
- International tribunals
- National Courts, enforcing norms taken from international sources
- Arbitral Decisions
- Often used for resolving problems related to commercial deals with state enterprises

**Academic Exposition, Synthesis, Persuasion, and Consensus**

- Monographs
- Articles

**Custom: Observation of What States Actually Do and Say**

- Publications and information systems of the State Department and its foreign equivalents, IGO’s, etc.
- National yearbooks
- International yearbooks
- Truth & Reconciliation Commission Reports
- The *Restatement*

When you visualize the sources of law for US domestic law, it is relatively easy to think in terms of statutes, cases, administrative regulations and perhaps a few other stray texts in a given jurisdiction. It is not realistic to transfer that basic orderliness to international law, but the next few sections will provide a framework for thinking about the sources of international law in a similar and systematic way.

**POSTSCRIPT**

There is a growing body of writing about the concept of "soft law" in international law. This grants a certain authority to norms which are not legally binding in a traditional understanding of international law. A good introduction to this idea and an exploration of its use in certain fields can be found in a book called *Commitment and Compliance* edited by Dinah Shelton for the American Society of International Law. It can be found at JX4171 .O3 C67 2000 on the second floor.

**General Introductory Materials**

**Dictionaries**

As in any field of knowledge, international law has a special vocabulary. While many of the terms will be found in general law dictionaries, such as *Black’s* or *Ballantine’s*, the dictionaries listed below focus on international law.

- The leading English language international law dictionary is the *Parry and Grant encyclopedic dictionary of international law* (Dobbs Ferry, NY: Oceana Publications, JX1226 P249 2004) in the 3rd floor reference collection.
- A shorter and simpler dictionary is James Fox's *Dictionary of international and comparative law.*
There are two copies in the collection, one in the reference collection on the 3rd floor and one in the foreign dictionaries collection in the reserve reading room of the 3rd floor.

- Ernest Lindbergh's *Modern dictionary of international legal terms: English, French, German* (Boston: Little, Brown, c1993. JX1226 L64 1993, 2nd Floor) is useful to find translations of legal terms from one language into the others.


**Encyclopedias**

The publication of the initial parts of the *Encyclopedia of public international law* in the 1980's was a godsend to researchers, teachers, and students of international law. It was issued throughout the 1980's in 12 slim hardbound volumes, each on a theme within international law, such as the Law of the Sea, International Organizations, or Geographic Issues. In 2003 an updated and integrated version was completed. Each article is written by an expert in that particular area of the law, and is accompanied by a basic bibliography of sources for the substance of the article. These bibliographies are the parts which have become most outdated, but they are very good starting points for basic research. In the Diamond Law Library the *EPIL* is found in the 3rd floor reference collection, at JX1226 En19a 1992.

Other useful encyclopedic tools include:


**Key Treatises**

The best single exposition of traditional public international law was James Brierly's *The Law of Nations: an introduction to the international law of peace* (Oxford University Press, 1963). While it is dated, it is short and well written. The Diamond Law Library’s copies are at JX2000 B76L4 1963, on the second floor. A new work, *Vaughn Lowe's International Law*, has been written to be a conscious successor to Brierly as a concise introduction to the field. It is found on the fourth floor at KZ1242 .L69 2007. The leading current works are *Oppenheim's international law*, 9th ed, edited by Robert Jennings and Arthur Watts (JX2000 Op5In8 1992, 3rd Fl Reserve), and Ian Brownlie's *Principles of public international law*, 6th ed, (KZ3225.B76 A37 2003, 3rd Floor Reserve Collection).

In terms of the American understanding of international law, the two leading works are both local: Professor Henkins's *International law: politics, values and functions: general course on public international law* (JX2000 H389In8, 2nd Floor), is a good, broad review from 1989. It was prepared for presentation at the famous Hague Academy of International Law and was originally printed in 1989 *Recueil des Cours*, IV, pp 9-416 (JX1295 .H1 1923c). Professor Schachter's *International law in theory and practice* (JX2000 Sch11In81, 3rd Fl Reserve) was also the general course at the Hague Academy and the original text is found in 1982 *Recueil des Cours*, Volume V.

Some of the more important standard works which cover the entire breadth of international law include:

There are many others. And as might be expected, there are treatises in all sorts of narrow areas within international law. International law casebooks, such as Damrosch’s *International Law: Cases & Materials* (JX68 I498 2001, 3rd Floor Reserve) and Carter, Trimble and Bradley's *International Law* (JX60 In776 2003, 2nd Floor) can be a good place to start research. Many casebooks also have documentary supplements which are a useful source of texts, but neither casebooks nor their supplements should be cited. The official source needs to be cited in any final work product.

International Law is one of the particular strengths of the Diamond Law Library here at Columbia. The on-line catalog, Pegasus, is a rich resource both to identify specific materials and to learn the nature of publication in general.

## Recent Research Guides

The standard work is *Guide to international legal research*, published by Lexis Publishing, 5th edition, 2003 (JX2000 G942G2, 2nd Floor Reference). This was originally a special issue of the *Journal of International Law and Economics* in 1987. A key starting point on the web is the *GlobaLex* International Law site. It consists of roughly 20 research guides covering a number of topics, ranging from Silke Sahl’s guide to Customary International Law to the narrow guide on International Marine Environmental Law by Arundhati Satkalmi.

In the middle 90’s, the American Association of Law Libraries held a series of symposia dedicated to researching international and comparative law. These resulted in five books which combine introductory texts in specific subject areas with research guides. They are all very useful, but unfortunately, they were produced just as the Internet was starting to appear as a reliable and widespread resource, so some of the information is already out-of-date. All of them are in the 3rd floor reference collection.

There are some web based research guides which vary in quality. Some of the better sites include:

- The American Society for International Law [Electronic Guide](#)
- University of Bologna's Research Guide to [International Law on the Internet](#)
- Brooklyn Law School's [Introduction to International Law Research](#)
- University of Chicago's [Legal Research on International Law Issues Using the Internet](#)
- The Harvard Law School Library's [Annotated Guide](#)
- The University of Utrecht's [Conducting Research in Public International Law](#)

**Treaties and Other Forms of International Agreements**

Just as statutes are the main source of modern domestic law, treaties have become the key source of law in international law. The first subsection of Article 38 of the ICJ Statute specifically mentions "international conventions" expressly creating the law in an area between or among the party states. Section 102 (3) of the *Restatement* reads in part "(3) International agreements create law for the states parties thereto ...."

The definition of "treaty" in the OED reads:

"A contract between two or more states, relating to peace, truce, alliance, commerce, or other international relation; also, the document embodying such contract, in modern usage formally signed by plenipotentiaries appointed by the government of each state."

The third Restatement’s definition reads:

§ 301 DEFINITIONS  
As used in this Restatement, (1) "international agreement" means an agreement between two or more states or international organizations that is intended to be legally binding and is governed by international law;"

This definition shies away from using the word "treaty" since it is intended to cover both treaties and "executive agreements" which are less formal but equally binding. There are a whole range of words that are used for agreements that are meant to have the force of law. Although treaty is the most common, others include Agreement, Charter, Convention, Covenant, and Protocol. Whatever particular designation is used, all have the same legal status.

The treaty-making process is highly analogous to the way contracts are arrived at in private law. The process involves negotiation, a signing by representatives of the parties, and ratification by the appropriate national bodies. In an ideal world, this is followed by publication of the text, but publication of treaties is far less regularized than publication of standard domestic law statutes.

There are two main classes of treaties: bilateral and multilateral, ie., with two parties or many parties. Double taxation and extradition treaties are usually bilateral, involving only two countries. Multilateral treaties are used to solve global or regional problems and to create global or regional institutions.

It is important to remember that treaties do NOT come into force when they are signed even though date of signing is an important citation element. Most treaties have a clause within them as to when they come into effect. This may be the date of ratification, the date parties have enacted required follow-on legislation, or, with multilateral treaties, the date when a set number of parties have ratified it. Parties who join a multilateral treaty which is already in force for some countries specify the date it comes into effect for themselves.

**Publication of U.S. Treaties**

The governmental publication of treaties in the US is somewhat irregular. Often the text first appears as a "Treaty Document", distributed when the President submits the treaty to the Senate for ratification. For multilateral treaties that are the result of many years negotiation, the draft treaty is often available from the body that is coordinating the development of the final text. In the early years of the republic, treaties appeared as part of the Statutes-at-Large, but that was not regular. Several compiled editions of treaties were published in the early part of the 20th century, culminating in Bevans’ *Treaties and other international agreements of the United States of America, 1776-1949*, (2nd Floor, JX236 1968).

In the late 1940's the federal government developed a systematic way of publishing treaties and executive agreements that lasted until the grim budget cuts of the early 1980's. This involved initial publication in slip form known as TIAS, which stands for *Treaties and other International Acts Series*. These are compiled and republished as chronological hard-bound volumes known as UST, or *United States treaties and international agreements*, (2nd Floor, JX235.9 A5). This system still exists in a withered, almost parodic, form, with texts published in a desultory manner. The most recent volume of the UST was received by the Diamond Law Library in April, 1998 and covered treaties ratified in 1984. We have received some TIAS pamphlets in 2000, covering agreements from 1995, but there are many in the numbered series which have not been published, going back to the 1980's.

As mentioned above, often treaty texts can be found as a Congressional "Treaty Document". These are published by the Government Printing Office (GPO) in support of the ratification process during the period between the President's transmission of the treaty for ratification and the actual ratification by the Senate. This format was adopted in 1980 and the paper versions are found at on the 2nd floor at JX231 Se54. Before that they were part of a set known as the Senate "Executive Document" series ( JX231 Se53). The digital version of these texts since 1995 can be found through the GPO website at http://www.gpoaccess.gov/serialset/cdocuments/index.html.

*NOTA BENE:* Since this guide was originally written, a similar guide focusing only on treaty research was created by Simon Canick and was recently updated by Beth Williams. It is found at http://library.law.columbia.edu/guides/Guide_to_Treaty_Research. That guide supersedes my original text, most of which has been deleted as of August, 2007.

**Treaty Citation**

The basic multilateral form is: (1) name of the treaty, (2) the full date of the signing, (3) a citation to where it is published.

*NB: While the BlueBook rules require only one citation to a source, if that source is not a common one, it is very useful to the reader if you include a parallel citation to a more commonly available series, such as UNTS or TIAS.*

Many treaties, especially older ones, are known by the place they were signed. The "Treaty of Rome" for example, founded the European Economic Community in the 1950's. Other multilateral treaties are commonly known through acronyms. An example is CITES, for the "Convention on International Trade
in Endangered Species".

The details of the rules and the hierarchies of publications to be cited are found in Rule 21 of the BlueBook.

Approaching Treaty Material

From the researcher’s point of view, the first question you need to ask yourself in analyzing a situation is "Is there a treaty or group of treaties which covers this subject?" If yes, the next questions are related to locating the actual text itself and ascertaining its status.

- Is the treaty bilateral or multilateral?
- What is the text of treaty?
- Who are the parties?
- Is it in force?
- Signed?
- Ratified?
- Reservations?
- Modified by later treaty/ies?
- Repudiated?
- Has it been incorporated into domestic law of the relevant countries, if necessary?
- Did it create some form of body or international organization which now administers the international law in that subject area?

In any given situation, only some of these questions may be relevant. However, the initial step is to consult the indices of treaties to find out what’s out there.

Phone Numbers

- Treaty Affairs, US Department of State: (202) 647-1345 FAX: (202) 736-7541
- United Nations Treaty Office: (212) 963-2523

A final note or segue: Treaties may have the effect of helping redefine customary law, the subject of the next section. The Restatement section 102 (3) reads in full "International agreements create law for the states parties thereto and may lead to the creation of customary international law when such agreements are intended for adherence by states generally and are in fact widely accepted."

Custom and State Practice

The Restatement at Section 102(2) reads "Customary international law results from a general and consistent practice of states followed by them from a sense of legal obligation". The notes to the section go on to explain "Subsection (2), includes diplomatic acts and instructions as well as public measures and other governmental acts and official statements of policy, whether they are unilateral or undertaken in cooperation with other states...." and it continues "For a practice of states to become a rule of customary international law it must appear that the states follow the practice from a sense of legal obligation (opinio juris sive necessitatis); a practice that is generally followed but which states feel legally free to disregard does not contribute to customary law." This idea is reinforced in Section 103(2)(d), discussing evidence of a rule, accepting as evidence "pronouncements by states that undertake to state a rule of international law, when such pronouncements are not seriously challenged by other states."
The overall concept is referred to as the "practice" of international law by such-and-such jurisdiction. It may be useful to consult the reporter’s notes to the Restatement for an extended discussion of the issues, including an acknowledgment of the possible circularity of definition and the process underlying the definition.

It follows that the sources used to substantiate Custom can be quite broad. The clearest sources are those documents from the appropriate institutions which assert that they are statements of customary international law. The institution should be the one within a given jurisdiction which has the power to make such statements, such as the Department of State for the United States. Thus diplomatic papers involving dispute resolution are prime source materials for international law.

In recognition of this, the Department of State periodically produces information about its work which includes letters and other documents relevant to international law. The best products were conscious digests of the work of the department, each covering a set period and each edited by an international law specialist. Early compilations tend to be known by the editor’s name, Wharton (1887), Moore (1906), and Hackworth (1944). The version known as "Digest of International Law" is edited by Marjorie Whiteman and is generally known as "Whiteman’s Digest". This is in 15 volumes, covering 1963-73, (at JX237 W588). Later years are covered by the Digest of United States Practice in International Law, 1974-2003 (with gaps), available in paper with documents available on the Department of State website http://www.state.gov/s/l/c8183.htm . Another resource is the publication of a kind of chronicle in each issue of the American Journal of International Law called "Contemporary Practice of the United States relating to International Law" written in consultation with the Department of State.

The website for the Department of State has a lot of raw materials for current activities, some of which is useful for international law purposes. The University of Chicago has an archive of DOS web materials at http://dosfan.lib.uic.edu/ERC/law.html . The unit within the Department of State which handles international law issues is the Office of the Legal Adviser. Their website is at http://www.state.gov/s/l/.

Because of the fuzziness of sources in this area, the Restatement itself, especially given its explanatory text and reporter’s notes, is a strong statement as to U.S. practice. It should be noted, however, it was not written with the imprimatur of the State Department.

The best parallel tools for other jurisdictions tend to be the non-official yearbooks of international law for particular countries. These tend to combine academic articles on international law with a solid review of current practice and selected reprinted documents.

Leading Examples Include:

- The Australian yearbook of international law
- The British yearbook of international law
- The Canadian yearbook of international law / Annuaire canadien de droit international
- The Finnish yearbook of international law
- Annuaire français de droit international
- German yearbook of international law / Jahrbuch für internationales Recht
- The Italian yearbook of international law
- Netherlands yearbook of international law
- The Palestine yearbook of international law
- Polish yearbook of international law
- Schweizerisches Jahrbuch für internationales Recht / Annuaire suisse de droit international
- South African yearbook of international law / Suid-Afrikaanse jaarboek vir volkereg
Multi-jurisdictional examples include the *African yearbook of international law* and the *Asian yearbook of international law*. Yearbooks are also important in documenting the role of international organizations within international law. (See below) The best yearbooks lead you to more solid materials by citing the actual texts involved with the perceived practice.


Many countries now have websites for their equivalent of the Department of State. The contents vary enormously. Examples include:

- Italy: Ministero degli Affari Esteri [http://www.esteri.it/](http://www.esteri.it/)

**Breadth and Context**

The sources presented above are related to practice in its narrowest sense. In fact, the totality of a nation’s "presentation of self" is its practice. This includes treaty participation and execution, actions of its administrative agencies, decisions of its courts, etc. All of this can be used as evidence of customary international law. Arguably, any institution which has the power in a given situation to decide that an assertion or action has the imprimatur of customary international law is in fact making it so. The limitation on this power is a jurisprudential one similar to the limits on the lawmaking power of a judge in Common Law.

**Historical**

For years the *Department of State Bulletin* was the official record of U.S. foreign policy from 1939-1989. It grew progressively less meaty and was replaced by a slim magazine *Dispatch*. *Dispatch* died at the end of 1999. The following text is adapted from the DOS website:

> The United States Department of State *Dispatch* has provided key speeches and testimony by senior State Department officials as well as current U.S. treaty actions since 1990. However, since all speeches, briefings, and testimony from State Department officials and the current U.S. treaty actions are available on the web site ([www.state.gov](http://www.state.gov)) at upon release, hard copy distribution of this publication will end with the December 1999 issue and Index.

The formal historical record of the work of the Department of State is found in an enormous set of hundreds of volumes prepared by the Department’s Office of the Historian entitled the *Foreign relations of the United States* (2nd Floor, JX233.A3 1862, earliest material in Cellar Storage). The current volumes cover the late 1960's. A good guide and about 30 of the most recent volumes can be found at [http://www.state.gov/www/about_state/history/frus.html](http://www.state.gov/www/about_state/history/frus.html).
General Principles of Law

In relation to principles as a source of law, Article 38 of the ICJ Statute reads:

1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:.....

   c. the general principles of law recognized by civilized nations;...

Reflecting on this, one authority has written:

"Writers disagree on the substance and content of general principles of law, as well as on their legal scope and relationship with the other main sources, namely treaties and customary law. "Some authors link these principles with the idea of natural law. Some others, basing their views on arbitral compromises from the 19th century, connect them with equity. Following Grotius in this respect, Charles Fenwick was of the opinion that these principles were deduced from the fundamental principles of morality and justice, together with the more specific principles from civil law codes and from Anglo-Saxon Common law of judicial precedents. "Some authors see in the inclusion of general principles in Article 38 of the statute of the Hague Court, a defeat of positivism, i.e., an indication of the impossibility of reducing the entire system of international law to the will of the States. On the contrary, some other authors consider these principles as precepts of positive law, because of their being recognized by civilized nations’ and being rules in force in municipal legal systems of States. A third group of writers tend to reduce the application of these principles to the private law analogy or to legal reasoning in general."

This extended quotation is from pages 14 and 15 of V. D. Degan’s Sources of International Law, (Nijhoff, 1997: Jx60 D363 1997, 2nd floor, temporarily on reserve for this course). I have quoted it at length to give warning of the overall mushiness of this area both in terms of the law and as a subject for research.

The Restatement, Section 102(4) reads:

(4) General principles common to the major legal systems, even if not incorporated or reflected in customary law or international agreement, may be invoked as supplementary rules of international law where appropriate.

The comments and illustrations to this section include these thoughts:

"General principles as secondary source of law: Much of international law, whether customary or constituted by agreement, reflects principles analogous to those found in the major legal systems of the world, and historically may derive from them or from a more remote common origin..... ...General principles common to systems of national law may be resorted to as an independent source of law. That source of law may be important when there has not been practice by states sufficient to give the particular principle status as customary law and the principle has not been legislated by general international agreement. "General principles are a secondary source of international law, resorted to for developing international law interstitially in special circumstances. For example, the passage of time as a defense to an international claim by a state on behalf of a national may not have had sufficient application in practice to be accepted as a rule of customary law. Nonetheless, it may be invoked as a rule of international law, at least in claims based on injury to persons,
because it is a general principle common to the major legal systems of the world and is not inappropriate for international claims. Other rules that have been drawn from general principles include rules relating to the administration of justice, such as the rule that no one may be judge in his own cause; res judicata; and rules of fair procedure generally. General principles may also provide ‘rules of reason’ of a general character, such as acquiescence and estoppel, the principle that rights must not be abused, and the obligation to repair a wrong. International practice may sometimes convert such a principle into a rule of customary law."

It is interesting to note that the troublesome reference to "civilized nations" in the ICJ statute has evolved into the gentler "common to the major legal systems" in the Restatement.

The expression of this concept is more familiar to Civilians than it is to common lawyers. Most civil codes have a statement to the effect that in the absence of express law, judges can turn to general principles to resolve disputes.

Chilean Civil Code, Article 24:
En los casos a que no pudieren aplicarles las reglas de interpretación precedentes, se interpretarán los pasajes obscuros o contradictorios del modo que más conforme parezca al espíritu general de la legislación y a la equidad natural. The Civil Code of Quebec, Preliminary Provision, Clause One:
The Civil Code of Quebec, in harmony with the Charter of human rights and freedoms and the general principles of law, governs persons, relations between persons, and property.
Code Civile Suisse, Article 4:
Pouvoir d'appréciation du juge: Le juge applique les règles du droit et de l'équité, lorsque la loi réserve son pouvoir d'appréciation ou qu'elle le charge de prononcer en tenant compte soit des circonstances, soit de justes motifs.

An older book dedicated to this subject is Bin Cheng's 1953 monograph General principles of law: as applied by international courts and tribunals, (2nd Floor, JX2000 C421G28). A more recent article is Christopher A. Ford's Judicial discretion in international jurisprudence: Article 38(1)(C) and "general principles of law", in 5 Duke Journal of Comparative & International Law 35-86, (1994).

Case Law and Secondary Materials

The ICJ Statute Article 38 displays the traditional Civil Law perception of case law, that it is a strong form of persuasive authority, but of no greater weight than the writings of experts in journals and books. It is hard for a Common Law trained lawyer to swallow this. Section 103 (2)of the Restatement shows a more modern understanding of the value of case law:

"(2) In determining whether a rule has become international law, substantial weight is accorded to

(a) judgments and opinions of international judicial and arbitral tribunals;
(b) judgments and opinions of national judicial tribunals;
(c) the writings of scholars"

The explanatory Comment states:

"Article 59 of the Statute of the International Court of Justice provides: ‘The decision of the Court has no binding force except between the parties and in respect of that particular case.’ That provision reflects the traditional view that there is no stare decisis in international law.
In fact, in the few permanent courts, such as the International Court of Justice, the Court of Justice of the European Communities, and the European Court of Human Rights, there is considerable attention to past decisions. In any event, to the extent that decisions of international tribunals adjudicate questions of international law, they are persuasive evidence of what the law is. The judgments and opinions of the International Court of Justice are accorded great weight. Judgments and opinions of international tribunals generally are accorded more weight than those of domestic courts, since the former are less likely to reflect a particular national interest or bias, but the views of national courts, too, generally have the weight due to bodies of presumed independence, competence, impartiality, and authority.

**International Courts**

International Law case law developed within a tradition of ad hoc tribunals established by agreements to arbitrate particular disputes, and a permanent "Court of Arbitration" was established at the Hague in 1899. This led to the creation of the Permanent Court of International Justice, established as an organ of the League of Nations in 1919. After World War Two, the PCIJ was replaced by the less ironically named International Court of Justice. A number of subject specific and/or regional institutions have developed international court systems within their structures. These include the courts related to the European Union, the Inter-American Court of Human Rights, the European Court of Human Rights, the Law of the Sea Tribunal, the WTO Tribunal, etc. The most recent truly international tribunal is the International Criminal Court, created in 1998.

While finding the case law of these institutions may seem relatively straightforward, some of the judicial systems are structured in ways that may seem odd to a novice. Opinions may be from an intermediate step rather than the final step in a proceeding. It is important to know the structure so you know the full authority of the text in hand.


**The International Court of Justice**

This is the "world court", the single main tribunal for settling disputes between nations. It has a very useful website [http://www.icj-cij.org/](http://www.icj-cij.org/). Its decisions are considered the strongest statement on what international law is in the disputed situation.

In 1996 a fancy coffee-table book on the history of the court was published which serves as a good historical introduction:


The *Yearbook* of the ICJ (JX1976. C2 Y32, 2nd Floor) contains a range of useful information, including basic texts, a list of all its cases, a presentation of the structure and procedure of the court, biographies of its current justices, summaries of that year’s cases, etc.

Another useful introductory text is:

The official reporter is:


ICJ cases are reprinted in a number of places, including unofficial reporters, journals, International Legal Materials, etc. It is best to cite to the official text.

There have been a number of attempts at digests, including:

- Fontes juris gentium. Berlin : C. Heymann, 1931-<1989> JX60 F71, 2nd Floor
- Series A, section I: Includes digests of decisions of Permanent Court of Arbitration, Permanent Court of International Justice, and International Court of Justice. Continued by: World Court digest. Berlin ; New York : Springer, 1992- JX60 W893, 2nd Floor

Many, if not all, of the cases through the middle 1980's are also digested in the Encyclopedia of Public International Law (Jx1226. En19, 3rd Floor Reference).

The ICJ’s predecessor under the League of Nations was known as the Permanent court of International Justice. Its decisions can be found in:


---

**European Courts**

The first thing to remember in regard to the regional courts in Europe is that there are two distinct systems. One is connected to the European Union (known for years as the European Communities) and handles issues related to the commercial and social effects of the EU system. The other is related to the Council of Europe and is devoted primarily to human rights and has no relationship to the European Union. There are areas where an outsider might be confused as to which court might take jurisdiction over a dispute. To make things worse, both Lexis and Westlaw have files which combine the decisions of these court systems, reinforcing the temptation to confuse them. It may be helpful to remember that the European Court of Justice (EU) is based in Luxembourg, while the European Court of Human Rights is based in Strasbourg.

**The Court System of the European Union**

The European court system has evolved over the years. It originally had formal decision-making roles for a commission, for the Advocate-General, and for the Court. This has changed into a two step procedure centering on the Court of the First Instance and the Court itself. Texts which appear as decisions within the European Union judicial system may be from the Commission, the Court of the First Instance, or the European Court of Justice. Older cases may have had an opinion of the Advocate-General as well, but Court has stopped printing them in the official reporter.
The general website http://curia.europa.eu/jcms/jcms/j_6/ for the European Union Court System includes a section with recent decisions of the European Court of Justice and the Court of the First Instance.

Since the constitution of the European Union is in fact a sequence of treaties whose cumulative effect has been to been to change earlier texts, there are now specific rules for how to cite the various treaties http://curia.europa.eu/en/content/juris/noteinfo.htm

**General Guide:**


**Decisions: Official reporter**

Court of Justice of the European Communities, Reports of cases before the court 2nd Floor, JX1984.E3 R32

**Decisions: Unofficial reporter**

Common Market law reports London: Sweet & Maxwell 2nd Floor, JX1982.L3 C73 (Latest UNBOUND issues in 3rd Fl Reserve)

LEXIS FILE: ECJ. However it is "Temporarily suspended due to technical difficulties"

WESTLAW FILE:

**The European Court of Human Rights, Strasbourg**

The ECHR (http://www.echr.coe.int/echr/) is a product of the European Convention on Human Rights and is administered through the Council of Europe. There used to be a two step commission / court structure, but the commission as a required preliminary hearing was dropped last year and there is now a "single court system".

The adoption of the principles of the convention into domestic law was one of the early objectives of the drafters. Different countries have done this at different speeds. England will be incorporating the Convention into its domestic law later this year, although they signed the treaty in 1950.

**General Guide**


**Decisions: Official Reporter**


**Decisions: Unofficial Reporter**

Other International Courts

Inter-American Court of Human Rights

This was created under the umbrella of the Organization Of American States (OAS). Its reports are found at:

- Inter-American Court of Human Rights Serie A, Fallos y opiniones/ Series A, Judgments and opinions San José, Costa Rica : Secretaría de la Corte, 1982- (JX4263.P3 In87824, 2nd Floor)
- Serie B, Memorias, argumentos orales y documentos / Series B, Pleadings, oral arguments and documents (JX4263.P3 In87825, 2nd Floor)
- Serie C--Resoluciones y sentencias/ Series C--Decisions And Judgments (JX4263.P3 In87826, 2nd Floor)

The official website of the Court is at www.corteidh.or.cr. There is a working mirror site at the University of Minnesota.

International Criminal Court

After many years of lobbying, drafting, and politicking, the Treaty establishing an International Criminal Court was signed in July, 1998. It is known as the "Rome Statute of the International Court". While the United States participated in the negotiations and drafting, we did not sign it because of serious objections within the government to certain elements of its jurisdiction and procedure. Sixty countries need to ratify it for the treaty to go into effect. There are only 14 ratifications so far.

The website developed in support of the negotiations is a model of its kind, with background documents, records of events, signatory and ratification information, etc.

The Project on International Courts and Tribunals, or PICT

This project is aimed at strengthening the notion of international tribunals and developing support for these tribunals. It has two main components: "Research and Policy Dialogue" and "Capacity Building". The webpage has links to a large number of current international tribunals.

Courts Generated by a Particular Situation

The Post-World War II Courts: Nuremburg and Tokyo Trials

- Avalon Project site on Nuremberg Trials


International Military Tribunal for the Far East. *The Tokyo war crimes trial : index and guide* New York : Garland, 1981- (JX1395.5 In99866, Cellar)

International Military Tribunal for the Far East *Judgment of the ... tribunal ... November 1948* (JX1395.5 In998, Treasure) International Military Tribunal for the Far East

*The Tokyo judgment : the International Military Tribunal for the Far East (I.M.T.F.E.), 29 April 1946-12 November1948* Amsterdam : APA-University Press Amsterdam, 1977- (JX1395.5 In9532, Cellar)

**International Criminal Tribunal for Rwanda**

The official site is at [http://www.ictr.org/](http://www.ictr.org/). There is an old and out of date mirror site at [http://www.un.org/ictr/](http://www.un.org/ictr/). This second site is a good example of how seemingly current material found on the web can be misleading.


**Iran-US Claims Tribunal**


**Domestic Courts**

Many cases brought before national courts involve ascertaining international law or deciding international law issues. The research systems used for domestic law have the capacity to find material involving international law issues. Many of the yearbooks mentioned in the section on custom also have sections reviewing and digesting the international law related cases within the particular country.

In some countries there are special private reporters which select and publish that country’s international law cases. Examples of these include:

- *British international law cases; a collection of decisions of courts in the British Isles on points of international law*

  *London, Stevens; New York, Oceana Publications, 1964- (JX60 B77, 2nd Floor)*
Note: "Confined to reports of decisions of municipal tribunals sitting within the British Isles, including, however, the Judicial Committee of the Privy Council."


- Hopkins, J. A. Commonwealth international law cases.

  Dobbs Ferry, N.Y., Oceana Publications, 1974-<c1986> (JX60 P238, 2nd Floor)

- Fontes juris gentium

  Berlin : C. Heymann, 1931-<1989> (JX60 F71, 2nd Floor)
  Series A, sectio 1: Includes digests of decisions of Permanent Court of Arbitration, Permanent Court of International Justice, and International Court of Justice
  Series A, sectio 2: Includes digests of decisions of German courts relating to public international law
  Series B, sectio 1: Includes digest of the diplomatic correspondence of the European States

Series A1 continued by:

- World Court Digest

  Berlin ; New York : Springer, 1992- (JX60 W893, 2nd Floor)

The American equivalent of these is American International Law Cases (JX60 D333, 2nd Floor), but it is essentially a photo-reprint, with permission, of selected cases from the various West reporters. The last one in the Diamond Law Library is from 1992.

There has been one serious attempt to bring general international law decisions from all kinds of national courts into one publication. It is Lauterpacht’s International law reports, known earlier as Annual digest of public international law cases (1919-1932) and Annual digest and reports of public international law cases (1933-1949). It is at JX60 An7, on the 2nd Floor. While computerized law reporting from around the world has lessened the importance of this work, it has the virtue of providing translations of foreign cases, and it is a very good historical source.

Other Dispute Resolution Institutions

Many of the standard alternative dispute resolution systems are also used within the international legal processes.

The different ad hoc means of settling a dispute include Mediation, Conciliation, and Arbitration. In that order, each one represents a greater surrender of decision making authority to an outsider. A mediator works to get the parties to an agreement without any authority to force either party into any action. At the other end of the spectrum, in an arbitration the parties agree to abide by the arbitrator’s decision even if it completely against their point of view. Arbitration was especially important in the development of international law before the creation of permanent international courts, and has continued to be used in sensitive situations, like the dispute between New Zealand and France over the French Secret Service’s
limpet mining of the Greenpeace ship "Rainbow Warrior" in a NZ harbor.

The decisions of arbitrators are a major source of case law within international law, and many efforts have been made to collect the reports of arbitral decisions in a public and systematic way. The only problem is that there is no formal obligation to publish the decision of an arbitration, so they can be hard to locate. The Diamond Law Library has many decisions in full as originally published by the parties. These were printed and catalogued individually. This unsystematic mode of distribution cries out for some sort of search tool, and a few have been developed.

The first major recompilation of arbitral and other decisions was:


Besides setting up the ICJ and establishing the registry of treaties known as the UNTS, the United Nations took on the role of reporter of arbitral decisions if the parties consented to it. The result is a 20 volume series known as:


A useful if skimpy, one volume digest of prominent arbitrations is:


Other useful starting points include:


Arbitration is also the major tool for settlement of disputes between states and large international companies, such as oil or construction companies which contract directly with states or state enterprises. These exist in the misty area between public and private international law.

---

Secondary Materials

The ICJ Statute Article 38(1)(d) displays the traditional Civil Law respect for academic writing, rating it an equal source of law to case law, and treating them both as persuasive rather than authoritative evidence of sources of law:

"...[J]udicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law."

Section 103 (2)of the Restatement perhaps changes the emphasis, but still rates secondary material highly by common law standards:
"In determining whether a rule has become international law, substantial weight is accorded to
(a) judgments and opinions of international judicial and arbitral tribunals;
(b) judgments and opinions of national judicial tribunals;
(c) the writings of scholars"

The reporters notes to the Restatement states: "1. Writings of international law scholars. The "teachings of the most highly qualified publicists of the various nations" are treated in Article 38(1)(d) of the Statute of International Court of Justice as subsidiary means for the determination of international law. See § 102, Reporters' Note 1. Such writings include treatises and other writings of authors of standing; resolutions of scholarly bodies such as the Institute of International Law (Institut de droit international) and the International Law Association; draft texts and reports of the International Law Commission, and systematic scholarly presentations of international law such as this Restatement. Which publicists are "the most highly qualified" is, of course, not susceptible of conclusive proof, and the authority of writings as evidence of international law differs greatly. The views of the International Law Commission have sometimes been considered especially authoritative."

This means that all classes of secondary material: treatises, monographs, journal articles, governmental reports, etc, can be used to argue the existence of a rule of international law. Which ones are the best tends to be a question of which ones have the best logic and have withstood the test of time. In the periodical literature, for example, good material can be found anywhere, although an assessment of the leading journals would include the American Journal of International Law, the Columbia Journal of Transnational Law, the Harvard International Law Journal, International and Comparative Law Quarterly, Journal du droit international (Clunet), Recueil des Cours, Zeitschrift für ausländisches öffentliches Recht und Völkerrecht, the Yale Journal of International Law, etc.

Indexing

- **Index to Foreign Legal Periodicals**, 1960+, (Comp 065.1 In8, 3rd Floor Reserve). Also available online: [http://pegasus.law.columbia.edu/record=b553482](http://pegasus.law.columbia.edu/record=b553482)
- **Public International Law**, 1975+, (JX2000 P961, 2nd Floor)
- **Legal Journals Index**, 1986+, (KD59 .L43, 3rd Fl Reserve) (also a database on Westlaw)
- US: Current Law Index, Index to Legal Periodicals

The "Mixed Journal"

Many European journals focused on international law or a specialty within international law have what I call the "mixed" format. This means they combine straightforward articles ("doctrine", in French) with the publishing of key cases in the field, along with some learned comments on the cases. Sometimes they publish legislation, regulations, and/or treaties as well.

Electronic Publishing

Many American law journal are available on Lexis and Westlaw. A large number of them are focused purely on international law, although many more may have some relevant articles. The best system to present journals on the internet is still being worked out. One example is the European Journal of International Law, which has an archive that stays two years behind current publication. Only abstracts of current materials are available. On the other hand, the Duke Journal of Comparative and International Law is published on the web at the same time the paper copy is distributed, and a backrun is kept from
the point at which the web publishing started.

The American Journal of International Law is among the very few law journals whose full back run has been converted into electronic form via the JSTOR program. It can be reached at http://www.jstor.org/journals/00029300.html.

**International Organizations**

International Organizations have become a major part of international relations, especially since WWII. Over the years they have developed a special status in international law. This is recognized in the Restatement which devotes a section to them including this statement:

§ 223 Subject to the international agreement creating it, an international organization has

(a) status as a legal person, with capacity to own, acquire, and transfer property, to make contracts, to enter into international agreements with states and other international organizations, and to pursue legal remedies; and

(b) rights and duties created by international law or agreement.

Another common term for these groups is Inter-Governmental Organizations (IGOs) which is especially useful to distinguish them from international groups whose members are not governments, such as Greenpeace or the World Council of Churches. Those kinds of groups are known as NGOs, for Non-Governmental Organizations, and they can be very visible in international affairs.

The key thing to remember is that many IGOs have the capacity to create a kind of legislation within their area of competence and if a tribunal or other form of adjudicatory mechanism is part of their structure, to render decisions affecting their members. The biggest IGO is the United Nations. Besides existing for its own purposes, it serves as an "umbrella" organization for many special purpose IGOs such as the Food and Agriculture Organization or the World Health Organization.

The other major class of international organizations is the regional organization. The most visible of these is the European Union, but there many of them, including the Organization of American States (OAS), Mercosur, the Islamic Conference, the Organization of African Unity (OAU), and the Association of South East Asian Nations (ASEAN). [NB: NAFTA is not an organization.]

A recent single volume introduction to International Organizations is:


Research guides:


A general directory:
The Internet has transformed the struggle to stay ahead of the documentation of IGOs. Most of them now have websites which at a minimum provide descriptive material, while the best of the sites reflect a realization that Internet publication of their materials helps both the organization and the would-be user. The library at Northwestern University has created a website (http://www.library.northwestern.edu/govinfo/resource/internat/igo.html) with links to a large number of IGO sites.

**United Nations**

The United Nations is the biggest and most complicated of the IGOs and acts as the parent organization for many others. A fair amount of the work of the UN has some impact on international law, either developing it, creating it, or enforcing it. To get an overview of the full range of UN activities, take a look at a recent volume of the *United Nations Yearbook* (JX1976.A21 Y36, 2nd floor).


The main bodies within the UN are the General Assembly, which has delegates from all the member countries, the Security Council, which has 15 members, 5 permanent and 10 rotating, the Economic and Social Council, and the Secretariat, which supports the work of the Secretary General. The 55th Session of the General Assembly will convene on September 5th, 2000.

The development of the UN websites means that finding some materials has become much easier. For example, General Assembly Resolutions from 1980 and Security Council Resolutions from 1946 on are on the main websites. In some circumstances, the collection of UN documents relating to a particular subject are more comprehensively presented at a site maintained by a subsidiary organization. A good example of this is the site run by the High Commissioner for Human Rights, http://www.ohchr.org/.

**Central site linking all UN Departments**

The United Nations was developed during the latter part of World War Two. It is the heir to the League of Nations, the first attempt at a truly worldwide IGO with a mandate to cover a wide range of subjects.

**SUBJECT ORIENTED IGOs**

The specialized agencies of the UN serve to coordinate world wide activities in specific subject areas. They are roughly analogous to our domestic federal agencies. For example, the US agency in charge of issues relating to airlines, airports, and air traffic control is the Federal Aviation Administration. The worldwide equivalent is the International Civil Aviation Organization (ICAO). There are many of these IGOs with varying amounts of power and different structures. All are the result of treaties and often serve to coordinate additional treaties in the same area. Most produce some sort of legislation-like texts. Most have some sort of representative body. Some have adjudicative bodies with of limited jurisdiction. All of them produce some sort of documentation.
This documentation includes treaties, meeting records, treaty or regulatory proposals, tribunal decisions, etc. The publishing and distribution structures are not coordinated, so finding the material can be a challenge. The best single guide to most of this is Peter Hajnal's *International information : documents, publications, and electronic information of international governmental organizations*, 2nd ed. Englewood, CO: Libraries Unlimited, 1997. (JX1995 In805 1997, 3rd Fl REFERENCE). This was written just as the Internet was taking off, so there is some acknowledgment of electronic sources, but it is now best seen as a snapshot of the end of the paper period. Virtually all of the UN related IGOs has a website. The UN maintains a central site linking to all UN affiliated groups. UN Publications System Pathfinder: http://www.un.org/Depts/dhl/pathfind/frame/start.htm

Examples of current IGO websites include:

- **Food and Agriculture Organization**
- **International Civil Aviation Organization**
- **International Labour Organization**
- **International Monetary Fund**
- **World Health Organization**
- **World Intellectual Property Organization**


**World Trade Organization (ex-GATT)**

The *World Trade Organization* is one of the newest international organizations. It describes itself as "the only international organization dealing with the global rules of trade between nations. Its main function is to ensure that trade flows as smoothly, predictably and freely as possible." The WTO was created in 1995 as the result of what is known as the "Uruguay Round of Negotiations", which lasted from 1986 to 1994. It evolved from the more awkwardly structured General Agreement on Tariffs and Trade (GATT).

**Introductory Works**


**Case Law**


**Historical Documents**

- General Agreement on Tariffs and Trade (Organization) *Basic instruments and selected documents*. (JX1976.T4 B291, 2nd Floor)

**European Union**

From the point of view of the IGO and European Federalists, the *European Union* is the most successful
IGO in existence. "Eurosceptic" politicians would grudgingly agree, but fear it has been too successful. There has been a substantial surrender of portions of normally sovereign power by its members, so EU rules and decisions have a direct effect on the citizens of the member states. It consists of fifteen countries of Western Europe, with several others waiting for admission. It earliest purposes were economic coordination and development, but there is now a strong social context as well. Besides the main website shown above, there is a site linking the main government websites of the member states at http://europa.eu/abc/european_countries/index_en.htm.

The rule making and judicial systems of the EU are very complicated, involving the interplay of a very powerful "Commission", the Council of the European Union, and the European Parliament (which would like to be more powerful). The interplay of these bodies is the subject of a very useful webpage.

European Court of Justice (Luxembourg) and related bodies are described above, in the Case Law Section.

Council of Europe

The Council of Europe is an intergovernmental organisation which aims:

"to protect human rights, pluralist democracy and the rule of law;
to promote awareness and encourage the development of Europe’s cultural identity and diversity;
to seek solutions to problems facing European society (discrimination against minorities, xenophobia, intolerance, environmental protection, human cloning, Aids, drugs, organised crime, etc.);
to help consolidate democratic stability in Europe by backing political, legislative and constitutional reform."

The Council of Europe covers all major issues facing European society other than defence. Its work programme includes the following fields of activity: human rights, media, legal co-operation, social and economic questions, health, education, culture, heritage, sport, youth, local democracy and transfrontier co-operation, the environment and regional planning.

The Committee of Ministers is the Council of Europe’s decision-making body, and is composed of the Foreign Ministers of the 41 member states (or their Permanent Representatives). The Parliamentary Assembly is the Organisation’s deliberative body, the members of which are appointed by national parliaments. The Congress of Local and Regional Authorities of Europe is a consultative body representing local and regional authorities.

The Council of Europe is the umbrella for the European Court of Human Rights, (see above) based in Strasbourg. Another related body is the European Commission on Human Rights.

MERCOSUR

The main website for this evolving common market of South America is hyperlinked above. There is a new (as yet uncatalogued in our library) multivolume set called Codigo del Mercosur, edited by Roberto Dromi which contains a plethora of material including "Tratado, protocolos, acuerdos, declaraciones, decisiones, resoluciones", etc.

Comparative Law Basics
I hope it has become clear that in researching international law you may need to work with materials from legal systems other than the United States. Finding applicable cases, statutes, regulations, or treaties may involve working with the domestic law research systems of any number of countries. Besides finding the raw information, such as treaties, it can be important to understand how international law fits into the legal system of a country. It can be dangerous to assume that a treaty is followed in another nation in exactly the same way as the United States, especially if that country’s legal background is substantially different from ours. In practice, lawyers rely on foreign firms to provide them assessments of the issues in this area.

In a gross over-simplification, the three major legal systems of the world are the Common Law System, developed from English sources and dominant in the areas colonized by England, Islamic law, dominant in the Middle East, and the Civil Law System, developed from Roman law and dominant everywhere else. A fourth system, Socialist law, developed in countries with Marxist governments, but it is now generally perceived as an off-shoot of Civil Law, and the ex-socialist countries tend to be re-developing along civil law lines. There are a number of less widely spread systems throughout the world which struggle to survive against the imperialism of the ex-colonial systems.

Some areas, such as Louisiana, Scotland, and South Africa are perceived as "mixed jurisdictions" due to their blending of Civil and Common law influences.

A good introduction to Civilian thinking is John Merryman’s *The civil law tradition : an introduction to the legal systems of Western Europe and Latin America*, (Comp 078 M554 1985, Cellar). On comparative law generally a more recent work is Peter de Cruz’s *Comparative law in a changing world*, (Comp 300 D359c 1999, Cellar). A good starting point might be an older, non-academic work, *The Faces of Justice*, by Sybille Bedford (Comp 870 B39, Cellar).

The leading tool for starting comparative law research is *Foreign law : current sources of codes and basic legislation in jurisdictions of the world*, by Tom Reynolds and Arturo A. Flores. It is kept at reference at K38 .R49 1989. This is a multivolume looseleaf annotated bibliography with a section on each country in the world.

For a good background presentation for each country and territory in the world, the best paper source is *The Statesman's year-book*, (JA51 .S7, 3rd Fl REFERENCE), which has been published since 1864. However, a faster start might be made through the web version of the CIA guide known as "*The World Factbook, 1999*." 

Within general comparative law there is recognition that there is a subject which might be called "comparative international law" The basic works are treatises which expound upon a particular country's application of international law. Examples include:


- **Kindred, Hugh M.** *International law, chiefly as interpreted and applied in Canada, 5th ed*. Toronto : Edmond Montgomery, 1993 JX2000 C268In7 1993, 2nd Floor


Or they can come in a larger form:

Other Useful Websites

The leading informal comparative law website is "Foreign Primary Law on the Web", compiled by Timothy F. Mulligan at the University of Houston. It has references to material from just over 90 countries. However, some of the material from some countries is pretty skimpy.

Mirela Roznovschi’s site of "Foreign Databases By Jurisdiction" covers fewer countries (43) than Mulligan’s, but has useful introductory paragraphs for each country.

An interesting international database of constitutional texts can be found at http://www.servat.unibe.ch/icl/info.html.

Networking

One byproduct of the diffuse nature of the sources of international law is that there is a high level of cooperation among the librarians and other specialists who work in the field.

American Society of International Law "Guide to Electronic Resources for International Law", includes a section on all the electronic mail list, newsgroups, etc which are related to international law. However, the ASIL page is one of those annoying ones which frames its links and hides the addresses of the linked sites, so it is a little frustrating to work extensively from it.

Another key networking site is the Jurist site at http://jurist.law.pitt.edu Pitt. It is designed to be a nexus for sharing electronic resources among law professors and can lead to syllabi, course notes, and outlines in areas of interest.

Other Websites:

Human and Constitutional Rights (www.hrcr.org)
A product of the Diamond Law Library and the Columbia Human Rights Institute. " This web site is being developed to help scholars, students, and practitioners find materials in Human Rights and Constitutional Rights and to accentuate the continuity between the two. To that end, we intend to include texts and links to information on both international and domestic law...... ... The term "constitutional rights" has been chosen to insure that it is clear to the users that domestic law will be covered. It is used in preference to "civil rights" because the latter phrase can be linked both to domestic law and to the United Nations Covenant on Civil and Political Rights."

Lex Mercatoria (lexmercatoria.org/)
Self description: "Lex Mercatoria was begun in 1993 at the Law Faculty of the University of Tromsø in Northern Norway. It was originally named Ananse and then the International Trade Law Monitor. It was the first legal website devoted to a particular subject area (admittedly a general and broad one) namely, international trade and commercial law. Lex Mercatoria provides the text of some of the more important treaties, conventions, model laws, rules aimed at harmonising international trade/commerce, and sets of links to sites that are of interest for (the working of) international commerce. Lex Mercatoria has continued in its original spirit to grow its independent and egalitarian set of link collections in response to a continuous exploration of the use and implications of the Net for international commercial law, international commerce and publishing. Recognising the problems for information management resulting from the glut of information..."
available on the web an attempt is made to organise and restrict the links provided to those that are likely to be most useful in the area targeted.

Lauterpacht Research Center for International Law, Cambridge, England

Max Planck Institute for Comparative Public law and International Law, Heidelberg
Among other things, this has an on-line catalogue of some depth which is especially useful because it includes articles.

"Le Réseau Internet pour le Droit International", (www.ridi.org)
"a été créé le 23 octobre 1998 sur une initiative, privée et indépendante, de chercheurs du Centre de droit international de l'Université de Paris 1 Panthéon-Sorbonne en vue de participer au développement et à la diffusion du droit international sur internet." Within this is an interesting site called "Actualité et Droit International, Revue d'analyse juridique de l'actualité internationale."

"Public International Law"
Created and maintained by Professor Francis Auburn of the University of Western Australia. It is basically a HUGE collection of links.

As with anything to do with the web, this section could continue in ever widening spirals of marginal information. I’ll stop it here and hope you get the idea that there is a lot of information "out there."

I’ll also leave you with a major caveat: **Not All Websites Are Equal**. When you look at information, ask yourself "why is it there?" If the website exists to serve the people who are creating the data, then the texts are likely to be reliable. If the connection between the text and the website is less obvious, the more likely the text may have been sloppily created and is perhaps unreliable. As with thoroughbred racehorses, pedigree is all.