Going International: Including an International Component in the Legal Research Curriculum
Why is it important to increase our students’ research skills in the international area?

• More students than ever before are likely to confront legal questions with an international dimension.
• There are pedagogical advantages to teaching this subject matter.
• Specific research skills can be enhanced through this subject matter.
More students than ever before are likely to confront legal questions with an international dimension

• It is no longer true that only students who go to work at the top firms in New York, Washington DC or Los Angeles will need to know anything about international or transnational law.
• Lawyers in small firms confront these issues too.
• Globalization and increased trade and competition among all kinds of businesses means clients have more int’l/transnt’l issues.
Is Legal Research Instruction Keeping Pace?

• Survey of the popular texts on my office shelves (purely anecdotal)
• 1 out of 10 texts had “something” (not much) about conducting legal research in int’l or foreign law.
• West’s Legal Research in a Nutshell has more on the subject than any of these.
Clarifying Terms

• International law (Public) typically refers to the law between nations in the form of:
  – Treaties
  – Customary law – consistent state practice + *opinio juris* (feeling that nation is bound)
  – General principles of law recognized by civilized nations
  – Judicial decisions and writings of the most highly qualified publicists
Clarifying Terms

• International law now covers a broader range of topics than war, territorial disputes, etc., and deals with many aspects of the transnational activities of private parties, e.g. IP, transnt’l commercial law

• Comparative law
  – The study and comparison (research) of laws of different legal systems
Clarifying terms

• Private int’l law typically refers to conflict of laws questions. How to determine which system’s law applies to a given situation
  – More generally private int’l law is blurred into the realm of int’l laws that govern transnt’l commercial law

• Foreign law – just like it says – involves researching the law of foreign legal systems
Clarifying terms

• All of this – Public International; Private International/transn’l commercial; Comparative and Foreign law – is what I am referring to in incorporating international subject matter into the legal research curriculum.
Example #1

- A US lawyer has a Mexican resident alien client who wires funds back to family in Mexico. Mexican authorities suspect that the funds are illicit payments and prohibits the transfer and the funds are therefore not made available to the recipient.
Example #2

• A US lawyer represents a client in divorce and custody litigation.
• One or both parents may be a foreign national.
• Visitation may be sought by a spouse in a foreign country.
• The child may in fact be located in a foreign country. (What if custody is eventually awarded to spouse living in the US? How can that spouse get the child back?)
Example #3

• A business client of a US lawyer wants to set up operations in a foreign country to:
  – Take advantage of available labor
  – Gain access to raw materials
  – Open up a new market

• Could be a distributor or foreign direct investment.

• The lawyer needs knowledge of the foreign market and legal landscape to do the job.
Example #3a

• If the US client’s foreign investment is already up and running, myriad issues may arise:
  – Employment
  – Asset transfer issues
  – US taxation of foreign generated income
  – Adequate protection of IP
  – Compliance with foreign corporate law or other regulations – competition, environment, safety, product labeling
Example #4

- A US business client enters into a sales deal with a foreign company and the foreign company is located/chartered in a CISG signatory country.
  - Choice of law clause or CISG
  - Could be malpractice for a lawyer not to know about this important international convention
More Reasons

• According to the most recent US census stats. 11.1% of the US population is foreign born.

• This large pool of potential clients may have legal issues in a foreign country:
  – Property
  – Business interests
  – Tax issues
  – Family law issues
The Facts:

- Globalization of the world’s economies
- Increased travel and migration

Result in:
- More cross-border issues being confronted in the average law practice
- We need to prepare students for this environment
- Harvard, U of Mich, AALS have each directly recognized the need for change
What does all this mean to teaching research?

• Do we need to teach students new skills?
  – Not likely. Largely the same skill set, different environment.

• Does this mean taking a major international detour in research training?
  – Doesn’t have to be. (To be sure, whole courses can be taught on this subject.)
  – The idea is to give students exposure to some very basic concepts which can be done in a class and an exercise or two.
• We need to give students a starting point for handling an int’l or transn’tl issue when it arises.
So, what are these skills that would merely be applied in a different environment?

- Developing search terms
- Developing a research strategy based on the facts
- Gathering general info on the legal system in the relevant jurisdiction (e.g. types of and hierarchy of authority, structure of courts, etc.)
- Locating sources
- Evaluating sources for relevancy and weight/authoritativeness
How to teach this?

- A research exercise could be very simple and structured much like one of my earlier examples and ask the student to devise a research strategy, generate search terms, determine and get an overview of the legal system, locate and evaluate some sources.
Pedagogical Advantages

• “Hotter” topic than it used to be.
• Exposure to more and different substantive law.
• Helps illustrate how legal systems interact (like federalism?)
• Reinforces points on the character and force of law.
Pedagogical Advantages

• “Hotter” topic
  – Chicago Council on Global Affairs Survey
    • Attempts to measure American attitudes on foreign affairs and the US’ place in the world.
    • Most recent (2006) says a few things about the “hotness” of the topic.
Pedagogical Advantages

• More on “hotness”:
• My own survey of several undergrad institutions around Chicago/Illinois
• Has enrollment in int’l studies or int’l business programs increased?
• Absolutely!
Pedagogical Advantages

DePaul University - Int'l Studies

- 2001: 150
- 2005: 250
Pedagogical Advantages

Loyola University - Int'l Bus.

Loyola University - Int'l Studies
International studies program added about 7 years ago
started with 20 students and in currently (2007) 200 students enrolled.
Pedagogical Advantages

University of Illinois - Int'l Studies

- 2004: 200
- 2007: 400
Pedagogical Advantages

- The subject is growing in popularity among students and presents a unique opportunity to foster student interest in research training
Pedagogical Advantages

• Exposure to new and different substantive law
• Introduces treaties as a source of law
  – Not important just for the “international lawyer”
  – Once adopted and ratified – this is the “law of the land”
  – Treaties can have significant impact on the garden variety activities of everyday client issues. Think about these:
    • NAFTA
    • Bilateral Tax Treaties
    • Hague Convention on International Child Abduction
    • bilateral agreements on child support/maintenance
Pedagogical Advantages

- Exposure to various kinds of transnational commercial law
- Some of these sources of law might in fact be important enough to know that, not knowing of them could spell malpractice, e.g. CISG – law of the land for transnt’l sale of goods contracts (unless excluded by the parties)
- International banking rules; commercial arbitration rules, etc.
Pedagogical Advantages

• Exposure to foreign law
  – Helps highlight features of domestic law by providing comparison/contrast
    • Like learning a foreign language
  – Civil law jurisdictions – based on codes; more and more statutory law in US
  – System of precedent/Stare Decisis – not found in many foreign systems
    • Helps illustrate this unique feature of US law
    • Helps reinforce concepts of persuasive (as opposed to mandatory) authority
    • Helps illustrate hierarchy and weight of authority
Pedagogical Advantages

• Other Advantages?
  – Helps illustrate interaction of legal systems in a similar way to teaching federalism
    • Subjecting a nation to the international law “enacted” by the international community or the judgment of an international tribunal
    • Subjecting private citizens to the rights and duties created by international institutions such as bodies of the UN (UNCITRAL)
    • The interaction between the EU “super government” and its constituent states
Pedagogical Advantages

• Other Advantages?
  – It may help to illustrate points regarding the character and force of law.
    • “Aspirational” (similar to using persuasive authority) vs. binding
    • How and by whom int’l law is enacted and interpreted
Enhanced Skills

• We can enhance several skills by teaching research in int’l law.
  
  For Example:
  - Internet/electronic searching
  - Vetting sources of information
  - Research methodology
  - Citation skills
  - Reliance on a variety of sources
  - Sensitivity to other legal cultures
Enhanced Skills

• Internet/Electronic searching
  – One reason that makes int’l legal research vastly easier than in previous decades is the proliferation of electronic sources
  – Int’l legal research was very limited when the primary vehicle for research was print
  – Constructing effective Boolean and natural language searches are probably the most important skills to have when trying to get at international legal materials
  – Many more of the research sources have started out in electronic form – and many are free!
Enhanced Skills

• Vetting Sources
  – We have all seen students rely on untrustworthy resources
  – This can potentially increase in the int’l research setting due to more electronic, more unofficial sources and unfamiliar systems
  – We can reinforce the vetting teaching point here since it takes on greater significance
Enhanced Skills

• Research methodology
  – We can illustrate the commonalities in methodologies no matter what system a student is researching in
  – Also can highlight the need for flexibility in methodology that might be necessary due to the differences in legal systems or ability to access information
Enhanced Skills

- Citation Skills
  - One more different type of source material that students would potentially need to learn how to properly cite. Good thing? Yes.
  - Emphasizing citation logic and sticking to a convention that allows the reader to locate the source
  - Helps emphasize use of Bluebook or ALWD as a manual that must be consulted regularly
Enhanced Skills

• Other skills?
  – Use and consultation of a variety of sources
    • synthesis of authority
  – Sensitivity to foreign legal cultures
The How & When to Incorporate Int’l Research Training

• Could be done in the first year, but doesn’t have to be

• Could be done in the form of a brief classroom lecture/activity and a short research assignment

• Handouts of 4 suggested exercises; feel free to use and adapt
The Landscape & the Future

• Print
  – Print’s not dead – It has just moved to assisted living
  – Lots of great resources (still) in print
  – Research Guides seem to be the best source of regularly updated information
The Landscape & the Future

  • Now updated annually
  • Comprehensive guide to int’l foreign and comparative research – great source to start with!

  • Covers research in general but provides a pretty complete guide for doing both int’l research and research in foreign law – in two separate chapters
The Landscape & the Future

• Print (Guides continued)
    • Covers most of the world’s countries
    • Listings include description of the particular legal system and list of major primary and secondary sources
    • Listings also include a bibliography of other helpful works by subject.
    • Loose-leaf / regularly updated
    • Will point you to a wealth of sources in many jurisdictions in many topical areas.
The Landscape & the Future

• More guides:


The Landscape & the Future

• Other Print:
  – *Treaties in Force: a list of treaties and other international agreements of the United States* (U.S. Dept. of State 2006)
    • Updated annually (also available online, although print version may actually be more current!)
    • Only deals with US treaties
    • Indexes by both topic and country
The Landscape & the Future

• More Print:
  • International Encyclopedia of Laws (series)
    – Focuses on specific subject matter and includes info on specific countries
    – Basically, a separate treatise on distinct major legal topics such as:
      • Labor
      • IP
      • Commercial
      • Family
      • Constitutional, and many more
The Landscape & the Future

• Print

• *Modern Legal Systems Cyclopedia*, (21 vols. 1984-date)
  – Surveys legal systems of over 170 jurisdictions
  – Depth and quality of treatment varies by jurisdiction
  – Good secondary source intro point to a particular legal system
The Landscape & the Future

• Print

• A few country–specific:

• F. Avalos, *The Mexican Legal System* (2d ed. 2000)


• Foster & Sule, *German Legal System and Laws* (3d ed. 2002)

• Many others
The Landscape & the Future

- Electronic Fee-Based
  - Hein Online
  - Westlaw
  - LexisNexis
  - CCH
The Landscape & the Future

• Hein Online
  – A wealth of international and foreign materials
  – International Foreign Journals
  – English case law
  – Treaties library
  – Phillip Jessup Library
  – Famous world trials
The Landscape & the Future
The Landscape & the Future
The Landscape & the Future

• Westlaw
  – A great deal of international and foreign materials available – access through “International/Worldwide Materials” database in general directory
  – Arranged by country, region, topic or type of source
    • Case law, legislation, administrative materials, journals, news media, etc., etc.
  – Database is often available to law students, but perhaps not in the law firm setting
    • Thus, great source for students but likely not accessible once they begin practice unless the firm subscribes to this
The Landscape & the Future

• LexisNexis
  – Much of the same comprehensive list of legal materials as on Westlaw – coverage of specific countries/topics varies
  – “International Law” in “Area of Law by Topic”
  – Or, search in “Global Legal” and pick a specific country or multinational category.
The Landscape & the Future

• CCH
  – More limited fee-based subject- or country-specific databases available
  – Seems focused on common law jurisdictions and much on business and tax
  – Pricing may be cheaper than Westlaw or Lexis, but narrower coverage
The Landscape & the Future

• Free online!
• Exciting topic and ever changing landscape
• More and more materials becoming freely available online
• Just the tip of the iceberg:
  – EU
  – WTO
  – UN
  – Free government/non-government sites!
A new beginning for the future of Northern Ireland
Spring Day for Europe 2007
Proposed EU Budget 2008

Commissioner Piebalgs opens the first Latvian agency of the Intelligent Energy programme
Taxation in Europe: the European Commission launches a new online information tool on the taxes in the Member States
More competition in public transport - but with safeguards

WHERE TO FIND EU DOCUMENTS - AN ONLINE LIBRARY

**European law**
- EUR-LEX, the portal to European Union law
- CELI, the Legislative Observatory
- Pre-LEX, monitoring of the decision-making process between institutions
- Case law
- Summaries of legislation

**Documents common to all the institutions**
- EUR-LEX
- Bulletin of the European Union
- General Report on the Activities of the European Union
- One year of Europe
- Historical Archives of the European Union
- Glossary

**Documents of individual institutions**
- Commission
- Council of the European Union
- Parliament
- Court of Justice
- Court of First Instance
- Court of Auditors
- European Commission
- European Parliament
- European Central Bank
- European Investment Bank
- European Economic and Social Committee
- Committee of the Regions
Lamy warns Doha failure would mean “breaking the commitment for a more developing-friendly world trading system”

Director-General Pascal Lamy, in a report to the General Council on 9 May 2007, said that “a successful outcome to the Round is possible, even in the small amount of time remaining until the end of the year”. He warned that failure would mean foregoing the very significant trade package on the table and “breaking the commitment for a more developing-friendly world trading system”. 09/05/2007  Audio: Mr Lamy’s statement to the General Council as chairman of the TNC  Audio: DG Press conference
WTO legal texts

Most of the WTO agreements are the result of the 1986-94 Uruguay Round negotiations, signed at the Marrakesh ministerial meeting in April 1994. There are about 60 agreements and decisions totalling 550 pages.

Negotiations since then have produced additional legal texts such as the Information Technology Agreement, services and accession protocols. New negotiations were launched at the Doha Ministerial Conference in November 2001.

See also pre-WTO legal texts
Dispute settlement

This page is a gateway to material on:

- Disputes in general, and how they are handled in the WTO and its Dispute Settlement Body
- New negotiations on the Dispute Settlement Understanding
- Individual dispute cases: The disputes

The WTO's procedure for resolving trade quarrels under the Dispute Settlement Understanding is vital for enforcing the rules and therefore for ensuring that trade flows smoothly.

A dispute arises when a member government believes another member government is violating an agreement or a commitment that it has made in the WTO. The authors of these agreements are the member governments themselves — the agreements are the outcome of negotiations among members. Ultimate responsibility for settling disputes also lies with member governments, through the Dispute Settlement Body.

A web page exists for each of the disputes brought to the WTO. The search facilities below provide links to these pages.

News | back to top

- 11 May 2007: Dispute Settlement Body: Proposed agenda
- 7 May 2007: Appellate Body issues report on compliance in price-band dispute
  > Just the findings and conclusions in pdf format
  > Full Appellate Body Report in Word format
  > Full Appellate Body Report in pdf format
  > Summary of the case DS207
  > More on Argentina
  > More on Chile
- 24 April 2007: DSBR establishes 2 panels; EC notifies increased
INTERNATIONAL LAW

Introduction

Courts and Tribunals

International Court of Justice
International Tribunal for the Law of the Sea
International Criminal Tribunal for the Former Yugoslavia
International Criminal Tribunal for Rwanda
International Criminal Court
United Nations Administrative Tribunal

Principal Legal Bodies of the United Nations

Sixth Committee of the General Assembly
International Law Commission
United Nations Commission on International Trade Law

Legal Documentation  Treaties  International Law Pathfinder

INTRODUCTION

International law is a primary concern of the United Nations. The mandate for the activities in this field emanates from the Charter of the United Nations which, in its Preamble, sets
**UN DOCUMENTATION CENTRE**

English  Français  Русский  Español

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**General Assembly**

- Session Documents >>
  - 61st | 60th | 59th | 58th | 57th
- Verbatim Records >>
  - 61st | 60th | 59th | 58th | 57th
- Resolutions
- Landmark Documents
- Search Press Releases

**Security Council**

- Resolutions
- SG reports
- Search / Press Releases
- Presidential Statements
- Exchange of letters
- Meeting Records
- Mission Reports

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*UNBISnet  UN Documentation: Research Guide  UN Pulse  UN-I-QUE: UN Info Quest  Maps and Geographic Information  UN Journal  UN Webcasts  Library  Documents in German*
Free Government Sites

Invest in Denmark
Ministry of Foreign Affairs of Denmark

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Suzlon: Global Headquarters

Microsoft: Development Center

JAPAN'S DNP ACHIEVES SUCCESS

BENCHMARK DENMARK

INVEST IN DENMARK
Health Sciences Nordic Investment Event
at Boston Scientific Corporation
Natick, Massachusetts, 12 June 2007
CORPORATE TAXATION

Denmark offers multiple tax incentives to foreign investors.

Denmark has a favourable tax climate thanks to a corporate tax rate of 28%, an extensive network of tax treaties and attractive tax rules for expatriates. Below, you will find information about corporate tax rules.

Corporate Taxation

- Corporate tax rate of 28%, which is below the average in Europe
- The effective rate is less, as business expenses and depreciation are deductible
- No additional social security contributions for employers as opposed to many other countries
- No capital duty, share transfer taxes, nor wealth taxes
- Dividends may generally be received/distributed without tax
- Group taxation
- Unlimited loss carry forward
- Transfer pricing legislation in accordance with OECD guidelines
- Denmark is one of the countries in the world which has entered into most tax treaties to avoid double taxation

For information on VAT: VAT Guide for Foreign Enterprises
Other Free Sites and Guides

• LLRX Comparative and Foreign Law Research Guides
• Governments on the World Wide Web
• CLEA – Collection of Laws for Electronic Access – WIPO’s database for foreign IP laws
• GlobalLex – NYU web site with dozens of topic and country specific research guides
• Pace’s CISG Electronic Library
• Dozens of legal information institutes with websites containing useful information
Other Free Sites

Welcome to BAILII, where you can find British and Irish case law & legislation, European Union case law, Law Commission reports, and other law-related British and Irish material. BAILII thanks JISC for providing major funding for the BAILII Open Law project, and The Society for Computers & Law for continuing sponsorship. For more information, see About BAILII.

Law Commission (England and Wales) Reports
As an interim step, the Acrobat (pdf) versions of 212 older Law Commission reports and 158 older Consultation Papers have now been loaded as part of the BAILII Open Law project. BAILII will continue to work to convert these to html format.

Did you know?
You can search Nominet UK Dispute Resolution decisions on BAILII.
Other Free Sites (continued)

• Lex Mercatoria – developed by a consortium of several European and American academic institutions
  – “dedicated to the provision of information on international commercial law…”
  – Very useful information and many useful links to other sources.
Lex Mercatoria was started at the Law Faculty of the University of Tromsø, Norway. It is hosted by the Law Faculty of the University of Oslo, Norway, in fellowship with The Institute of International Commercial Law, Pace University, School of Law, White Plains, New York, U.S.A., who have encouraged it.

It is dedicated to the provision of information on international commercial law with subsidiary interests in commerce and (mostly open standard) Net and information technologies that may be of interest to law academics and professionals worldwide.
Lex Mercatoria

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Law Sites - Other Subject Areas
- International Business/Commercial Law
- International Trade Law
- International Economic Law
- Information Technology Law
- International & Transnational Law (and Foreign law lists)
- Law and Economics
- Public International Law
- Law and Politics

Law Sites - Miscellany
- Some Influential Academic Law Sites on The Internet
- Law Universities and Academics
- Law on The Internet - Treaties, Conventions, Model Laws, Rules and Forms
- Law Libraries, Publishers and Research Guides
- Law Journals and Periodicals
- Law Firms and Associations
- Law Search and Find - Link Repositories, and Search Assistants
- Law Sites Compendium
The Landscape & the Future

• The future of legal research in the international arena looks bold and bright
• International issues will not be going away and our students need to be prepared
The Landscape & the Future

• We need to embrace the international and take control of it by making sure that students get some exposure

• It reinforces much of what we already do

• The proliferation of free electronic sources looks as if it will continue
  – Provided that many of the very useful sites developed and run by academics and academic institutions do not get swallowed up by the fee based providers
  – The proliferation of free electronic sources is already very prevalent in many jurisdictions (EU) but trending that way here too.