Sources of Public International Law

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Several fundamental problems confront those seeking the sources of international law. First and foremost, at the conceptual level, there is no constitutional ‘machinery for the creation of rules of international law’ so that the notion of ‘formal sources’ is misleading (Crawford 2012, 20). However as pointed out by Lowe (2007, 100) “International Law has something close to a constitutional document which is a statement of the fundamental principles upon which the international legal order is based”. This was adopted by the UN General Assembly in 1970 as Resolution 2625\(^1\). It is important to realise that these are principles, not rules, which makes their interpretation and implementation far from straightforward. An additional problem is the phenomenon of ‘fragmentation’ of international law (see, e.g., Koskenniemi 2008; Shaw 2014, 46)\(^2\) and the whole question of non-state actors (e.g. Roberts and Sivakumaran in Evans 2018 p 89 – 118).

What we can search for is evidence of ‘general consent or acceptance of states [that] can create rules of general application’; sources that may provide such evidence are, for example, decisions of the International Court of Justice (ICJ), United Nations General Assembly resolutions and various ‘law-making’ multilateral treaties (Crawford 2012, 20). But these ‘sources and evidences’ are extensive, diffuse and decentralised. Even locating them is a challenge.

This account of sources follows the priorities used by the ICJ, as set out in article 38(1) of the ICJ’s Statute (1945). I have added some additional materials, 5 – 7, not specifically identified in the Statute:

1. International Conventions
2. International Custom
3. General Principles of Law recognized by (civilized) nations
4. Judicial Decisions and Teachings of Publicists
5. Other Sources
6. Encyclopaedias, Digests etc
7. Research Guides, Resources & Blogs/Commentaries

The additional materials are: Section 5 which deals with *inter alia* UN Resolutions and ‘soft law’; and Sections 6 & 7, which list ‘Encyclopaedias, Digests and Guides’. These are useful as starting points for searches on particular problems or topics.

\(^1\) Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations. Seven basic principles set out in http://www.un-documents.net/a25r2625.htm

\(^2\) See Appendix I – a quotation from Koskenniemi
Particular topics (e.g. human rights, environmental law, and specialized aspects therein) are sometimes viewed as generating independent bodies of law, but they are still part of the general corpus of public international law. Thus materials relevant to such topics are nested within several of the main categories outlined here. Researchers will need to adopt systematic strategies for tracking down required items.

See also Chap 12 “Guide to electronic sources of International Law”, *Cambridge Companion to International Law*, CUP 2012

[NB Items highlighted in blue will be covered in the talk while items highlighted in yellow will also be the subject of post talk exercises]

*Italics* = Subscription Databases
(Round brackets) = Additional information

1. International Conventions

International conventions are written bilateral or multilateral treaties (agreements, conventions, protocols and covenants) between states or international organisations.

1.1 General Treaty Sources

- United Nations Treaty Collection
- Council of Europe
- European Union (Europa website)
- National Treaty Collections

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3 Such topics are the result of the phenomenon of fragmentation referred to above by Koskenniemi 2008
4 See Appendix II for additional notes
6 http://conventions.coe.int/
7 https://europa.eu/european-union/law/treaties_en

HeinOnline

Consolidated Treaty Series

Major Treaty Portals and Sources
WorldLII International Treaties
Minnesota Human Rights Library
Avalon
International Legal Materials

Treaty Indexes
Flare Index to Treaties
Multilateral Treaties: Index and Current Status

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9 http://www.state.gov/s/l/treaty/ State Dept. TIAS from 1996
10 https://www.gov.uk/uk-treaties UK Treaties Online. Access to over 14,000 UK treaties from 1832.
https://www.gov.uk/uk-treaties#treaty-command-papers Treaty Command Papers
Treaties & MOUs: Guidance on Practice and Procedures
11 http://basedoc.diplomatie.gouv.fr/Traites/Accords_Traites.php Conventions et Accords Internationaux provides text of bilateral & multilateral treaties where France is a party
http://www.senat.fr/dossiers-legislatifs/conventions-accords-internationaux.html
12 https://zoek.officielebekendmakingen.nl/zoeeken/tractatenblad Available in French & Dutch
13 https://zoek.officielebekendmakingen.nl/zoeeken/tractatenblad Access to all treaties (full text) applicable to The Netherlands since 1951.
14 http://www.treaties.mfat.govt.nz/ Treaty Section
16 Contains full text US treaties from 1776, including treaties no longer in force.
17 Treaties & Agreements Library contains, inter alia, Treaties in Force, International Legal Materials[ILM] and BYIL.
18 The text of treaties concluded between 1648 and 1919 can be found (some only in the vernacular) in this series, which comprises 231 volumes. Publication was begun by Professor Clive Parry at Cambridge in 1969 and ceased in 1981. Accessible as OUP subscription from 2014.
19 http://www.worldlii.org/int/special/treaties/ Full text of over 60,000 treaties (30,000+ from the UN collection) simultaneously searchable. Treaties are both bilateral and multilateral from numerous countries, in 27 databases from many sources and from multiple LIIs.
20 http://www1.umn.edu/humanrts/ Treaties & MOUs: Guidance on Practice and Procedures
21 Yale Law School http://avalon.law.yale.edu/default.asp
22 http://www.asil.org/resources/international-legal-materials Subscription via HeinOnline or Westlaw
23 http://193.62.18.232/dbw-wpd/textbase/treatysearch.htm This searchable database contains details of over 2,000 multilateral treaties from 1856 to the present with details of print and online access. Inter alia it will direct you to original texts of older treaties, when only the text of later, amended versions is available on a depository website. Also gives the name of the state or organization acting as depositary.
1.2 Specific Areas

UN Intergovernmental Organisations
Law of the Sea: IMO
Investment Treaties:
  UNCTAD, National Institutions (Austria, Canada, India, UK, USA), Kluwer Arbitration
Labour: ILOLEX

Other Intergovernmental Organisations
International Humanitarian bodies: e.g. ICRC
Hague Conference on Private International Law [Hague Conventions]
International Institute for the Unification of Private Law [UNIDROIT]
Organization for the Prohibition of Chemical Weapons [OPCW]

1.3 Treaty Interpretation – Travaux Préparatoires

International Law Commission
UN Records - ODS
International Organisations, e.g. ILO
Library Catalogues
Yearbooks

27 http://www.imo.org/en/About/Conventions/Pages/Home.aspx
28 http://investmentpolicyhub.unctad.org/IIA. Most up to date database of bilateral investment treaties. Full text of all available BITs searchable alphabetically. Use Advanced Search for BITs
29 Some country websites contain full text of bilateral treaties
30 http://www.bmeia.gv.at/europa-aussenpolitik/voelkerrecht/staatsvertraege/bilaterale-staatsvertraege/
32 http://finmin.nic.in/bipa/bipa_index.asp
33 FCO https://www.gov.uk/guidance/uk-treaties for bilateral investment treaties
35 http://www.kluwerarbitration.com/ Searching is free and provides citations, but a subscription is required for full text documents
37 https://www.icrc.org/applic/ihl/ihl.nsf/vwTreatiesByDate.xsp
41 Often academic presses publish commentaries on treaties. Key into Library catalogue the Treaty Title. This should produce a commentary if one exists. E.g. ICSID Convention as title should produce the seminal commentary on the treaty by Schreuer.
42 UN Yearbook http://unyearbook.un.org/ Useful for historic research. Country yearbooks e.g. BYIL.
2. International Custom: State Practice & Opinio Juris

Customary international law comprises state practice (actions/inactions of states) and opinio juris (the obligation for action/inaction). Art. 38 of the Statute of the International Court of Justice defines customary law as “evidence of a general practice accepted as law”. Crawford (2012, 24) suggests that sources will include diplomatic correspondence, policy statements, official manuals, state legislation, international and national decisions.

2.1 Foreign Ministry Websites

UK Foreign & Commonwealth Office: British Nationals Abroad45
State Department Guidelines 46
Digest of United States Practice in International Law47
White House Memoranda48
Sites worldwide49

2.2 State Legislation

Many countries publish Gazettes as a first official source of laws. Some also publish Session Laws, which are statutes printed chronologically by date of enactment. Other countries publish codes which bring together all aspects of a defined area. Mostly, codes are published in the vernacular, but some English translations do exist. A good starting point to find where items of State Legislation are held in UK libraries is the FLAG Foreign Law Guide.

FLAG Foreign Law Guide50

Foreign Law Guide51

43 http://www.nyulawglobal.org/globalex/Travaux_Preparatoires1.htm
44 http://hr-travaux.law.virginia.edu/
47 http://travel.state.gov/law/law_1734.html
48 http://www.whitehouse.gov/briefing-room/presidential-actions/presidential-memoranda
49 http://www.usip.org/resources/foreign-affairs-ministries-web
51 Subscription Service http://referenceworks.brillonline.com/browse/foreign-law-guide
2.3 Yearbooks & equivalents[^61]

Yearbooks for International Law (e.g. *British Yearbook of Int Law*)
Journals (e.g. *American Journal of International Law*)
UN Official documents & publications[^62]

2.4 International Law Commission[^63]

3. General Principles of International Law

General principles of state law that are brought to bear at the international level. Such principles include notions of good faith and equity.

4. Judicial Decisions & Teachings of Publicists

Although there is no doctrine of precedent in the ICJ and International Tribunals, cognizance is taken of previous decisions of the Court. The writings and opinions of academics play some role in judicial decision making, but since this influence varies, even between states, its role tends to be restricted to particular points of law and/or reasoning in judgments of courts or tribunals.

4.1 Decisions of International Courts & Tribunals

European Courts
ECJ[^64], ECHR[^65]

International Criminal Courts[^66] & Tribunals[^67]

Global Courts
International Tribunal for the Law of the Sea[^68]

[^52]: http://www.nyulawglobal.org/Globalex/
[^53]: http://www.llrx.com/
[^54]: http://www.worldlii.org/
[^55]: http://eur-lex.europa.eu/n-lex/pri/pri_en.htm
[^56]: http://www.wipo.int/wipolex/en/index.jsp
[^57]: http://faolex.fao.org/
[^58]: https://www.icrc.org/ihl-nat
[^60]: http://www.juriglobe.ca/eng/index.php Overview of world legal systems
[^61]: Many accessible as abstracts and some full text via Index to Foreign Legal Periodicals. HeinOnline carries many as full text.
[^64]: http://curia.europa.eu/jcms/jcms/101_6308/
[^65]: http://www.echr.coe.int/ECHR/EN/Header/Case-Law/HUDOC/HUDOC+database/ Tick the Decision as well as the Judgments (left frame) when searching.
[^66]: International Criminal Court http://www.icc-cpi.int/
[^67]: International Criminal Tribunal for the former Yugoslavia http://www.icty.org/
International Criminal Tribunal for Rwanda http://www.ictr.org/
Special Court for Sierra Leone http://www.sc-sl.org/
[^68]: http://www.itlos.org/
World Trade Organization Dispute Settlement

*TradeLawGuide*

*WorldTradeLaw*

International Court of Justice: ICJ website, *ILM*, *Westlaw*

Arbitration Institutions

Permanent Court of Arbitration (PCA)

International Court of Arbitration (ICC)

London Court of International Arbitration (LCIA)

International Centre for Investment Disputes (ICSID)

Resources for Investment Law: Decisions & Awards

Investment Treaty Arbitration (italaw)

*Investment Arbitration Reporter*

International Arbitration Case Law

*KluwerArbitration*

*Investor-State LawGuide*

*Transnational Dispute Management (TDM)*

*Westlaw*

UNCTAD

CLOUT

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http://www.asil/org/sites/default/files/ERG_IECONL.pdf


71 Subscribers have access to Dispute Commentary Service which summarises and analyses WTO panel and Appellate Body reports and WTO arbitrations.

72 [http://www.icj-cij.org](http://www.icj-cij.org) Search Contentious Cases, by State Party to a Case or date of “culmination”. For boundary disputes maps are often included.

73 See Additional Notes 2.1

74 Contains the full text of ICJ judgments from 1947.


75 Selected cases available from court website and from *Reports of International Arbitral Awards*

76 *Arbital Body of the ICC (International Chamber of Commerce).* Arbitrations are confidential and offer parties choice of tribunal, arbitrators, rules of law and place of arbitration.

http://www.iccwbo.org/about-icc/organization/dispute-resolution-services/

77 [http://www.icia.org/](http://www.icia.org/) Awards are not published

78 [https://icsid.worldbank.org/apps/ICSIDWEB/Pages/default.aspx](https://icsid.worldbank.org/apps/ICSIDWEB/Pages/default.aspx) Click “Cases,” to see lists of pending and concluded cases, awards and decisions. Provides procedural details of ongoing ICSID proceedings.


81 [http://www.internationalarbitrationcaselaw.com/](http://www.internationalarbitrationcaselaw.com/) Searching is free and provides citations, but a subscription is required for full text documents


84 Contains text of commercial arbitration cases from inter alia Australia, Canada, Hong Kong, UK, US. Key in Database Identifier ICA-CASES


86 Selected case law on UNCITRAL texts [http://www.uncitr.org/clout/showSearchDocument.do](http://www.uncitr.org/clout/showSearchDocument.do)
Treaty-specific Resources
US Dept of State\(^88\), Canadian Dept Foreign Affairs\(^89\)

Country websites\(^90\)

General Sources over all subject areas (including Arbitral Awards)
Reports of International Arbitral Awards (R.I.A.A.)\(^91\)
*International Law Reports* 1919 – present\(^92\)
*International Legal Materials (ILM)*\(^93\)
*Oxford Reports on International Law*\(^94\)
WORLDLII International Courts & Tribunals Collection\(^95\)
Also LawCite\(^96\)
PIC\(^97\)
ASIL Guides\(^98\)

Decisions within Municipal Courts
*Oxford Reports on International Law in Domestic Courts*\(^99\),
BAILLI\(^100\), Austlii\(^101\), Globalex country guides\(^102\)

### 4.2 Teachings of Publicists

**Journals**

**Full text searching**

*Index to Legal Periodicals*\(^103\) (Ebsco), *Legal Source*\(^104\) (Ebsco),
*Index to Foreign Legal Periodicals*\(^105\), HeinOnline\(^106\)

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\(^88\) [http://www.state.gov/s/l/c3439.htm](http://www.state.gov/s/l/c3439.htm)
\(^90\) Some country websites contain full text of bilateral treaties e.g.
\(^92\) 1919 - CUP. Edited by Sir Elihu Lauterpacht, Judge Christopher Greenwood & Ms Karen Lee. Originally published as the *Annual Digest of Public International Law Cases*. The set includes the decisions of the domestic courts as well as international courts. Cases are published in full in their original form and where necessary, translations of foreign judgments are provided. Summaries follow each report. Electronic access via Justis subscription database. Comprehensive coverage from 1919 to present.
\(^93\) Reproduces important primary materials including judicial and arbitral decisions. Accessible via Lexis, Westlaw and HeinOnline.
\(^94\) [http://opil.oulaw.com/home/oril](http://opil.oulaw.com/home/oril)
\(^95\) [http://www.worldlii.org/](http://www.worldlii.org/)
\(^96\) [http://www.worldlii.org/LawCite/](http://www.worldlii.org/LawCite/) Law citator. Includes indexed cases, journal articles & law reform documents
\(^97\) [http://www.pict-pcti.org/](http://www.pict-pcti.org/)
\(^100\) [http://www.bailii.org/](http://www.bailii.org/)
\(^101\) Australasian Legal Information Institute - [http://www.austlii.edu.au/](http://www.austlii.edu.au/)
\(^102\) [http://www.nyulawglobal.org/globalex/#](http://www.nyulawglobal.org/globalex/#)
\(^104\) Full text access to over 880 scholarly peer reviewed journals from Common Law jurisdictions. Includes *Index to Legal Periodicals*
\(^105\) *Index to Foreign Legal Periodicals* commenced in 1960. Specialises in foreign journals. Good coverage of Yearbooks in International Law. Hosted by HeinOnline with many full text links.
\(^106\) Comprehensive image-based collection of legal periodicals. Coverage is from the journals’ inception but does not continue to the most current volume.
Legal Journals Index\textsuperscript{107}, (Westlaw UK), World Journals\textsuperscript{108} (Westlaw International), World Journals & Law Reviews (Westlaw International), Transnational Dispute Management TDM\textsuperscript{109}, Kluwer Law International\textsuperscript{110}, Lexis Library\textsuperscript{111}, Hague Recueil\textsuperscript{112}, BeckOnline\textsuperscript{113}

Open Access
Within the UK, following the Finch Report, it is now government policy that all academic journal articles will be OA from 1 April 2016. This does not yet apply to books.

SSRN\textsuperscript{114}, DOAJ, UN AudioVisual

LCIL Lunchtime Lecture Series\textsuperscript{115}

5. Other Sources

Primarily involves the United Nations, but also includes various regional economic organisations, IGOs, NGOs, INGOs and PPIs, which together, are becoming an important, not to say dominant, force in international legislation formulation. They produce what is often called soft law. This is part of the topic of global governance by non-sovereign, largely non-democratic bodies which is discussed by Benvenisti\textsuperscript{116}.

5.1 UN Bodies

The UN competences include rule making, adjudication, monitoring of compliance with the law and the formulation of policy [Lowe 2007 p. 12 - 14]. The documentation from this body is vast. Official records comprise meeting records, resolutions and decisions and reports of major committees. Accessed via UN Documentation Centre\textsuperscript{117}. Several useful guides (see 7.1) describe inter alia the structure of the UN, the system of document notation, as well as the reporting route (e.g. ILC reports to the GA).

\textsuperscript{107} Indexes scholarly journals as well as non-peer reviewed practitioners’ tools
\textsuperscript{108} Westlaw International. U.S. and Canadian based publications. Contains KeyCite.
\textsuperscript{109} http://www.transnational-dispute-management.com/welcome.asp
\textsuperscript{110} Useful for EU and European law. Contains inter alia the full text of European Public Law and Common Market Law Review. Good technical support from provider.
\textsuperscript{111} http://squire.law.cam.ac.uk/electronic_resources/legal_databases.php
\textsuperscript{112} Coverage of common law journals
\textsuperscript{113} http://www.nijhoffonline.nl/pages/recueil-courses The Collected Courses Online is the electronic version of the longstanding book series on international law: Collected Courses of the Hague Academy of International Law.
\textsuperscript{114} Contains about 15 full text German journals including Neue Juristische Wochenschrift. Good customer support.
\textsuperscript{115} http://ssrn.com/en/ Counts as institutional repository for compliance with Finch Regulations.
\textsuperscript{116} http://www.lcil.cam.ac.uk/friday-lunchtime-lecture-series
\textsuperscript{117} The Law of Global Governance, Brill, The Hague Academy of International law, 2014
UN General Assembly. Articles 24 and 25 of the UN Charter state that Resolutions of the GA are recommendatory. However where States ‘consistently vote for resolutions and declarations on a topic, that amounts to a state practice and a binding rule may very well emerge provided that the requisite *opinio juris* can be proved’ (Shaw 2014, 82).

There are seven specialised GA committees; the Sixth Committee considers legal matters, which include: GA questions, reviewing work of _ad hoc_ GA committees, and approving the codification programme of the ILC (see below). Its website has material from 1977. Summary records of meetings in the Sixth Committee can be retrieved through UNBISNET or the ODS (see 7.1).

UN Security Council. Articles 24 and 25 of the UN Charter state that SC Resolutions are binding on all member states of the organisation. In recent years the SC has been willing to lay down rules and principles of general application including use of its power to override customary law and treaty obligations (Boyle and Chinkin 2007, 109-10).

International Law Commission. Established by the UN General Assembly in 1947 to develop and codify international law. In addition to draft treaties and guidelines, also prepares reports and studies on topical issues of international law. ILC records can be retrieved using UNBISNET or the ODS (7.1 below). ILC Yearbooks accessible online from 1949.

Other UN Bodies. International law is also developed during the work of:

UNCITRAL (United Nations Commission on International Trade Law), whose work is scrutinised by the GA 6th Committee.

UNHCR (United Nations High Commissioner for Refugees), whose recommendations have been adduced before some national courts (see Gardiner 1997, 660).

UNCTAD (United Nations Conference on Trade and Development), whose reports include, _inter alia_, the harmonization of trade and development policies and cases of investor-state dispute settlement.

Specialized Agencies, e.g. ILO, UNESCO.

5.2 Regional Organizations
ACS – Association of Caribbean States
ASEAN – Association of Southeast Asian Nations
AU – League of Arab States
EEA – European Economic Area
NAFTA – North American Free Trade Agreement

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118 [http://www.un.org/ga/64/resolutions.shtml](http://www.un.org/ga/64/resolutions.shtml). Search by General Assembly session number and then by agenda items
5.2 **Soft Law**

Soft law is a convenient term for a variety of non-Legally Binding instruments used in contemporary international relations (e.g. inter-state conference declarations), common international standards of transnational regulatory bodies, NGOs and professional and industrial associations (see Boyle & Chinkin 2007 p 212 – 213; and Klabbers 2014). There is no centralised list – researchers have to look up the particular statements, standards and declarations as required. Such important organisations include the UN, IMF, NATO, World Bank, WTO, ICSID, EU, NAFTA, major international corporations, Amnesty International, and even sporting organisation (e.g. FIFA). They produce *inter alia*: non – statutory “guidelines”, “declarations”, “recommendations”, and “standards”.

6. **Encyclopaedias, Digests, Dictionaries, News**

- *Max Planck Encyclopaedia of Public International Law*[^125], *International Encyclopedia of Ethics*[^126], *Keesing’s Record of World Events*[^127], *Who’s Who*[^128], *Dictionary of National Biography*[^129], Stanford Encyclopedia of Philosophy[^130], *Factiva – Political, business & financial news; company & market info*[^131], *LexisLibrary – access to many major broadsheets internationally, Times Digital Archive*[^132]

7. **Research Guides, Resources & Blogs/Commentaries**

7.1 **UN Guides / Resources**

- *UN Treaty Reference Guide*[^133],

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[^125]: Bodansky, *Legitimacy in International Law and International Relations*

[^126]: *Encyclopaedia of Public International Law*, Oxford, OUP, 2012. Published under the auspices of the Max Planck Institute of Comparative Law and International Law, under the direction of Rudolf Bernhardt. Electronic subscription currently hosted by OUP and integrated with OUP’s *Oxford Reports on International Law.*

[^127]: See also *Encyclopaedic Dictionary of International Law*, Clive Parry et al, New York: Oceana Publications 1986. This combines the features of a dictionary and an encyclopaedia with scholarly analysis and source references.

[^128]: Reference work. Peer reviewed articles incorporate metaethics, practical ethics and normative ethics.

[^129]: *Keesing’s Record of World Events* 1931 – present (formerly *Keesing’s Contemporary Archives*) Cambridge. Provides a unique contemporary record of modern history and is a factual objective reference of current affairs.

[^130]: Published since 1849, a leading source of information about over 33,000 influential people in British public life.

[^131]: Scholarly open access reference work.

[^132]: Factiva for comprehensive coverage of news worldwide. Click Source, then drill down by region, country, etc. See Library list of Legal Databases:

7.2 Other Guides

ASIL Guides, LLRX, Globalex, Academic Library Guides, The Bluebook, OSCOLA

7.3 Resources

Cambridge Eminent Scholars Archive

7.4 Blogs/ Commentaries


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134 http://research.un.org/en
135 http://www.un.org/law/avl/
136 http://unbisnet.un.org/ Access to meeting records of the Principal organs from mid 1980s. By country, organization, speaker, document symbol or topic.
140 http://www.llrx.com/
141 http://www.nyulawglobal.org/globalex/index.html
142 https://libguides.bodleian.ox.ac.uk/law-internat
144 http://www.law.ox.ac.uk/publications/oscola.php
145 https://www.squire.law.cam.ac.uk/eminent-scholars-archive
146 http://www.ejiltalk.org/author/jlouth/ - Outstanding academic contributions
147 http://www.asil.org/insights - Scholarly commentaries archived from 1996
148 http://publiclawforeveryone.com/ - Written by Cambridge University Public Lawyer
149 http://kluwerarbitrationblog.com/
150 http://opiniojuris.org/
151 http://www.asil.org/blogs/ilib useful for treaty information as well as updates on international dispute settlement
152 http://ireports.blogspot.co.uk/
153 http://lawprofessors.typepad.com/international_law
154 http://ukhumanrightsblog.com/
155 http://ukconstitutionallaw.org/
156 http://constitution-unit.com/
Bibliographic Sources


APPENDIX I

Quote from Koskenniemi in Eminent Scholars Archive
http://www.squire.law.cam.ac.uk/eminent_scholars/professor_martti_koskenniemi.php

“For a number of years now, or maybe one could say twenty years, the old law, public international law, has been undergoing what international lawyers now call the process of fragmentation. It has become more and more technical so that, for instance, in the United States in many law schools there are no longer courses on public international law. There are courses on international human rights law, international environmental law, international business transactions, law and globalisation etc. And all of these disciplines are by their nature much more technical, much more specialized. And their specialization also often carries a particular political bias, or a political ethos, so that if you see a group of trade lawyers you, by and large, know what parties they vote, and they will not be the same parties that if you see a group of environmental lawyers will vote. So I think this is quite natural but it’s somewhat worrying and something should be done about it.

So for me it seems that it’s both professionally negative as well as a small personal tragedy for lawyers to incarcerate themselves within these small worlds of, say, international investments law or international energy law and one does only that. And also one internalises the bias of the profession and becomes unable to have a broad view and a broad political view on one’s own activities.”

APPENDIX II

Additional Notes
1.1 General Treaty Sources.

**United Nations Treaty Collection**

The open access United Nations Treaty Collection is a potentially useful source of treaty texts. It provides access to full text of bilateral and multilateral treaties and related subsequent actions. There are two important databases:


b). Status of Multilateral Treaties Deposited with the Secretary General. Updated daily. Gives the current status (signatures, ratifications, reservations, etc) of over 560 treaties deposited with the Secretary General. Historical Information gives notes on changes within the countries and their statutes. In the Status Table, countries underlined are those which registered reservations, declarations, etc at the time of signing or ratifying. See also the Vienna Convention on the Law of Treaties 1155 U.N.T.S. 331.

UNTS also includes the League of Nations Treaty Series. This database is under development.

If users cannot find a particular treaty in the UNTS or a National Treaty Collection, websites of sponsoring organisation should be consulted. International organisations often publish treaties for which they are depositories. For example, the IMO is the depository for many multilateral treaties in the field of shipping law and marine pollution. Users might also contact local Foreign Ministry Treaty Sections, particularly for status information, e.g. whether a country has ratified a treaty.

**Consolidated Treaty Series**

The text of treaties concluded between 1648 and 1919 can be found (some only in the vernacular) in this series, which comprises 231 volumes. Publication was begun by Professor Clive Parry at Cambridge in 1969 and ceased in 1981. Since 2014 this resource is also accessible via OUP.

Note: citations to treaties that have arisen in decisions of courts and tribunals can also be found in the Index to the series International Law Reports.

**National Treaty Collections**

Publication can be in government gazettes, journals or some other official treaty series. In the UK all treaties are subject to ratification, accession, acceptance, approval or analogous procedure by being laid before Parliament in accordance with the statutory provisions of Part 2 of the Constitutional Reform and Governance Act 2010 (formerly a procedure known as the Ponsonby Rule). They are published as a Command Paper, in pdf since 1997 on the FCO website. The new FCO UK Treaties Online provides access to over 14,000 UK treaties from 1832. It includes pdf of original maps (with full topographic and boundary details). It also includes some translations of treaties from original languages.

Recent international agreements of the U.S. can be found on the State Department’s website on the Treaty Affairs page. Other countries with good databases of treaties are France, Switzerland, Ireland, Canada and Australia.

**International Legal Materials**

This journal contains current international and foreign documentation on international law, including treaties, some MOU’s, as well as cases of international interest and other documents of current relevance. Often the first general publication of instruments is through ILM.

**Flare Index to Treaties**

This searchable database contains details of over 1,5000 multilateral treaties from 1856 to the present with details of print and online access. *Inter alia* it will direct you to original texts of older treaties.
treaties, when only the text of later, amended versions is available on a depository website. Treaties have been selected from the Multilateral Treaties: Index and Current Status, compiled and annotated by M.J. Bowman and D.J. Harris, as well as International Legal Materials. Where relevant, the entry will link to EISIL.

1.2 Specific Areas
International organizations publish treaties for which they are depositaries. An example of this is the IMO, (see Lowe 2007, p. 86). The ILO has a well developed treaty website as does the WTO. However it is often the case that these websites will not contain the original text, in which case you may have to consult one of the older print treaties (e.g. Martens or BFSP). With luck you will be directed to these older treaty series through the Flare Index to Treaties.

2.1 Foreign Ministry Websites
Increasingly, foreign ministries are providing information on policy and position across a wide range of international issues on their websites. For instance, the FCO has useful manuals on diplomatic law, while the US State Department’s “Digest of International Law” which supplements the print Digest of United States Practice in International Law, is also now available online.

2.2 State Legislation
FLAG Foreign Law Guide
This is a collaborative internet gateway to the holdings of foreign and international law in UK (see Clinch 2002). It provides collection descriptions of primary materials in print for foreign jurisdictions. The search facility allows access, inter alia, to holdings for obscure jurisdictions which may not provide official government websites. Users will also find historical material that government websites do not normally carry.

2.3 Yearbooks & Equivalents
British Yearbook of International Law
1920 - present. Publishes, inter alia, summaries of decisions of international tribunals and digests of national cases.

UN Official documents & publications
The official records and documentation of the United Nations, its specialized agencies and other international organizations, constitute a key source of information on, inter alia, the development of legal norms. A large number of such records and documentation are accessible on the UN website. This includes the Yearbook of the International Law Commission New York, which contains articles and documents on international law and foreign law published by several countries and is a good source of custom and state practice.

4.1 Decisions of International Courts & Tribunals
European Courts
European Court of Justice – The Court’s website, provides access to all case law since 1953.
European Court of Human Rights – An important court for international adjudication. According to Lowe (2007 p. 127), the largest number of pending claims before a single international tribunal is the backlog of the applications to the European Court of Human Rights, which had 90,000 cases pending at the end of 2006, a figure expected to rise to 250,000 by 2010.

161 London: Butterworths, 1984, ninth supplement, 1992
162 Washington, D.C., American Society of International Law, 1962-
Case law is contained in a database called HUDOC. This provides the most comprehensive collection of decisions and judgements from the Commission and the Court.

**International Criminal Court**

The International Criminal Court was established by the Rome Statute of the International Criminal Court. The website provides access to the activities and documentation of the Court. To see the Cases, click the link “Situations and cases”. The documentation can usefully be divided into two main categories: public court records and transcripts. The former are plentiful and allow the researcher to follow cases and learn a great deal about procedure. The latter are not as accessible because only transcripts of hearings in open session are available, and many hearings are held in closed session.

**Global Courts**

*International Tribunal for the Law of the Sea (ITLOS)*

Established under the auspices of the 1982 Law of the Sea Convention by SC Resolution 687 in 1991. Has decided 23 cases to date. A subsidiary organ – Sea Bed Dispute Chamber (SBDC) was set up to handle specialised cases related to exploiting the deep sea bed. Both are open not just to states but also organizations and allow parties to enjoy some of the advantages of arbitration (See Merrill p 575 in Evans 2010).

*World Trade Organization dispute settlement*

The adjudication of trade disputes through the WTO Dispute Settlement mechanism is an important and active area. From its establishment in 1995 up to 2005, 350 cases have been brought before it (Lowe p. 128). The WTO Dispute Settlement website provides access to WTO dispute resolution documents, including panel reports, Appellate Body reports and adopted panel reports. A helpful subscription database in this rapidly growing area is WorldTradeLaw.net which provides Dispute Settlement Commentaries. Also useful is TradeLawGuide which provides excellent support, both technical and substantive. TradeLawGuide purports to be the only database that allows noting up of WTO law. It also provides comprehensive pinpoint citations.

*International Court of Justice*

The judgments of the ICJ are singled out because they are the most important component of the source of law known as judicial decisions.

The Court’s website is comprehensive and particularly efficient in bringing various documents, briefs, transcripts and final judgments into the public domain.

*Arbitration Institutions*

Although the ICJ is very important, in purely numerical terms it is not the primary means for the resolution of disputes. Only a few cases each year are referred to the Court for judicial settlement. Arbitration is more commonly used for the settlement of disputes, and operates purely on the basis of a voluntary agreement between the parties. The arrangements for these tribunals will differ from one instance to the next. It is ad hoc for a particular dispute, often with no provision for publication because proceedings are not undertaken by an institution. Consequently, sometimes the judgments and documentation are difficult to find.

The area with the most traffic in international arbitration (in terms of the number of cases and tribunals) is probably investment arbitration, which concerns disputes between foreign investors and host states. Again these are difficult to find because they are ad hoc. It is important that they are accessed however because of their legal and commercial significance: there has to be certainly about the rights and obligation of companies in foreign jurisdictions.

Disputes relating to investment arbitration, are often handled through tribunals established though Bilateral Investment Treaties (BITs). A feature of BITs is that diplomatic intervention of the home state is not usually called for. Arbitration is between the host state and the foreign investor. The 1965 International Centre for the Settlement of Investment Disputes Convention (ICSID) created an arbitral institution to administer investment arbitrations – usually under UNCITRAL rules (See Crawford 2012 p 741 – 743).

166 http://www.worldtradelaw.net/dsc/main.htm
167 http://www.tradelawguide.com
Permanent Court of Arbitration

Established in 1899. Supports ad hoc arbitral proceedings, particularly investor/state matters, for which it provides registry support and hosts oral proceedings. Operates its own set of optional rules for arbitration. Selected cases available from court website and from Reports of International Arbitral Awards (see Collections below).

Collections

Reports of International Arbitral Awards (R.I.A.A.)
The UN has taken it upon itself the publication of selected arbitration awards of international decisions - a) between States and b) between States and international organizations. Full text searchable by Volume or Party name. Scrollable Tables of cases from vols 1 – XXX.

International Law Reports 1919 – present
Originally published as the Annual Digest of Public International Law Cases. This is the only publication in the world wholly devoted to the regular and systematic reporting in English of decisions of international courts and arbitrators, as well as judgments of national courts. Cases are published in full in their original form and where necessary, translations of foreign judgments are provided. Summaries follow each report. Series is arranged according to a comprehensive classification scheme. Indexes are updated cumulatively after approximately fifteen volumes have been published. Now available online from Justis as well as CUP.

Decisions of Municipal Courts
Decisions of municipal courts come from a variety of sources. They are often reported in official reporters, commercial or unofficial sources. There is no systematic reporting of cases in civil jurisdictions so researchers may need to use commercial journals. A useful source is the FLAG database where users can search for foreign court reports held in UK libraries.

Lowe (2007, p. 125) comments that in English Law, customary law is one of the sources of the common law. Courts will draw on it to decide cases. Also, treaties are no source of English Law unless transposed by legislation. International law issues are frequently raised in domestic courts and “a glance at the cases reported in International Law Reports or at the on-line International Law in Domestic Courts, many of which are concerned with the relationship between municipal law and international law [gives] an indication of the extent to which international law has permeated our national legal system” (Lowe 2007 p. 126).

4.2 Teachings of Publicists

Journals – Full Text Searching

Index to Legal Periodicals (ILP)
This large database goes back to 1908 as a product of the AALL (American Association of Law Libraries). In 1961 Wilson purchased ILP from AALL and since 1978 Wilson assumed complete and independent responsibility for the publication. It is currently hosted by EBSCO. Indexing is done by one centralised team which deals with English language journals. ILP currently indexes ~1000 mainstream journals with permanent reference value from Common Law jurisdictions. It also indexes open access law journals.

Legal Source
New facility comprising merged databases from EBSCO and H. Wilson. Provides access to more than 880 scholarly and trade publications including book reviews and case studies. Detailed indexing. International coverage of major common law jurisdictions. Excellent support from providers for both technical and substantive queries.

Index to Foreign Legal Periodicals (IFLP)
Begun in 1960 at the Institute of Advanced Legal Studies (London), but since 1984 has been run from University of California at Berkeley. Online access since 1980 which is currently via HeinOnline. IFLP is a multilingual index to articles and book reviews in legal journals published

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worldwide. It provides in-depth coverage of public and private international law, comparative and foreign law, and the law of all jurisdictions. Because IFLP indexes journals in the vernacular, there are correspondents globally handling obscure journals or lesser known jurisdictions. One particular strength of IFLP is its inclusion of Festschriften & similar items which are becoming increasingly cited by academics in common law jurisdiction, but which tend to be overlooked by mainstream databases rooted therein\textsuperscript{169}.

7.1 UN Resources

\textit{Treaty Reference Guide}

Provides a basic - but not exhaustive - overview of the key terms employed in the United Nations Treaty Collection, such as treaties, agreements, conventions, charters, protocols, declarations, memoranda of understanding, modus vivendi and exchange of notes. Also included is a glossary of terms relating to treaty actions.

\textit{UNBISNET}

Catalogue of UN documents and publications indexed by the UN Dag Hammarskjöld Library and the Library of the UN Office at Geneva. Includes commercial publications and other non-UN sources held in the collection of the Dag Hammarskjöld Library. Coverage is from 1979 onward, but older documents are added to the catalogue on a regular basis. Users may search voting records of resolutions adopted by the General Assembly and Security Council from 1946 onwards.

\textit{UN-I-QUE (UN Info Quest)}

UN-I-QUE (UN Info Quest), a ready-reference file created by the Dag Hammarskjöld Library to provide access to document symbols/sales numbers for UN materials (1946 onwards). It does not give full bibliographic details nor does it replace existing bibliographic databases (UNBISnet) produced by the Library. UN-I-QUE focuses upon documents and publications of a recurrent nature: annual/sessional reports of committees/commissions; annual publications; reports periodically/irregularly issued; reports of major conferences; statements in the General Debate; etc.

\textit{ODS (United Nations Optical Disk System)}

The database comprises the full text of all UN parliamentary documents, including resolutions and decisions. Search options include: by document symbol, publication or released date, words from the title, subject, agenda item number, session number and full text. The most useful option is the keyword search.