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Research Guides

FOREIGN & COMPARATIVE LAW

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I. INTRODUCTION

Foreign law consists of the rules governing the domestic laws of individual foreign countries. **Comparative law** involves comparing foreign legal principles and institutions with one's own; it is a method of studying legal problems, rather than a body of rules and principles. This guide is intended to provide a general overview of foreign and comparative law sources. The Library has separate **research guides** for English, Canadian and European Union legal materials (http://www.law.duke.edu/lib/research_guide).

II. GETTING STARTED

When you approach a research topic on foreign or comparative law, your first step should be to use English-language **secondary sources** to acquaint yourself with the characteristics of a foreign legal system or comparative law sources and methods. If you can, you should then look at secondary sources in the language of the country whose legal system you are researching. As well as giving you substantive information, foreign language secondary sources, such as treatises, encyclopedias and articles, are a good way to familiarize yourself with the vocabulary used for legal concepts.

A. General Works

General works on foreign and comparative law will help you understand differences in legal systems and different methods of legal reasoning. They will often provide useful bibliographical references as well.

Comparative Law: A Handbook (edited by Esin Örüçü and David Nelken) (K559 .C645 2007). This book focuses on controversies and methodologies in contemporary comparative law.

David, René & John E.C. Brierly, ***Major Legal Systems in the World Today***, 3d ed. (K583.D3812 1985). A classic, this book classifies legal systems into families based on Western conceptions of law.

Elgar Encyclopedia of Comparative Law, 2d ed. (Ref. K48 .E42 2012) provides information on the legal systems of about 20 countries, along with essays on a variety of topics.

Glendon, Mary Ann, Michael W. Gordon & Paolo G. Carozza, ***Comparative Legal Traditions in a Nutshell***, 4th ed. (Reserves K560.G43 2016) is a basic introduction to the topic.

Glenn, H. Patrick, ***Legal Traditions of the World: Sustainable Diversity in Law***, 5th ed. (K559 .G545 2014). This work surveys religious and culturally-conditioned law (e.g., Islamic law) as well as the civil and common law families of law.

Husa, Jaako, ***A New Introduction to Comparative Law*** (Reserves K559 .H87 2015). This accessible text provides a history of comparative law as a discipline, and guidance for comparing legal systems.

International Encyclopedia of Comparative Law (K48.I582). This is an excellent (though incomplete) introduction to foreign legal systems, with each volume focused on a different area of law. The “National Reports” volumes provide introductions to the legal systems of various countries.

JuriGlobe: World Legal Systems (<http://www.juriglobe.ca/eng/index.php>) is a research project from the Faculty of Law of the University of Ottawa that includes general information on the variety of legal systems in the world.

Law and Judicial Systems of Nations, 4th ed., rev. (Ref. K583 .W67 2002). Brief overviews of the legal system and court structure of 193 countries.

Legal Systems of the World: A Political, Social, and Cultural Encyclopedia (Herbert M. Kritzer, ed.) (Ref. K48 .L44 2002 & online, <http://search.library.duke.edu/search?id=DUKE005921706>). This four-volume set is arranged alphabetically by country and subject; the country entries provide a historical overview, a discussion of the legal system and short bibliographies.

The Oxford Handbook of Comparative Law (Mathias Reimann & Reinhard Zimmermann, eds.) (K48 .O96 2006 & online at <https://search.library.duke.edu/search?id=DUKE005994214>) is a collection of essays that examines the development of comparative law in a number of countries and analyzes modern comparative law as an intellectual enterprise.

Redden, Kenneth R., ***Modern Legal Systems Cyclopedia*** (K530 .M62 & online at <https://search.library.duke.edu/search?id=DUKE006654049>). This multi-volume introduction to

the legal systems of foreign countries is arranged by continent and area. It includes both country studies written by selected experts and reprints of articles on a variety of topics, mostly related to international law.

To locate additional works in the **Duke Libraries Catalog** (<https://search.library.duke.edu/>), use the subject heading search *comparative law*.

B. Finding Journal Articles

There are articles on comparative and foreign law topics in many law reviews and journals, especially those focusing on foreign and international law. Listed below are just a few of the leading English-language journals specializing in foreign and comparative legal topics.

- ***American Journal of Comparative Law*** (Periodicals & online at <https://search.library.duke.edu/search?id=DUKE004352051>). Published by the American Society of Comparative Law, this journal includes articles on a wide range of foreign and comparative law issues.
- The British Institute of International and Comparative Law puts out the ***International and Comparative Law Quarterly*** (Periodicals & online at <https://search.library.duke.edu/search?id=DUKE004385759>).
- The ***International Journal of Legal Information*** (formerly *International Journal of Law Libraries*) (Periodicals & online at <https://search.library.duke.edu/search?id=DUKE004386533>) is a publication of the International Association of Law Libraries. It includes many bibliographies and reviews books of topical interest.

Sources to locate articles on foreign and comparative law topics include:

- The **Index to Foreign Legal Periodicals** (<http://search.library.duke.edu/search?id=DUKE003131763>) indexes articles in English language and foreign language journals in the fields of public and private international law, comparative law and the municipal law of all countries except the U.S., U.K. and Commonwealth countries with common law systems.
- **Index to Legal Periodicals & Books** (<http://db.library.duke.edu/search?id=DUKE003350460>) indexes scholarly law books and journals from 1981-present, with full-text from 1995 onward.
- **LegalTrac** (<http://db.library.duke.edu/search?id=DUKE002990148>) covers a larger number of periodicals than the *Index to Legal Periodicals* and has more practice-oriented periodicals.
- Szladits' ***A Bibliography on Foreign and Comparative Law*** (1955-1983), continued by ***Szladits' Bibliography on Foreign and Comparative Law*** (1984-1998) (Ref. K38 .S95 & in HeinOnline Parker School of Foreign & Comparative Law Library, <http://search.library.duke.edu/search?id=DUKE006277126>), are useful for finding older English-language articles (after 1990 articles are no longer indexed).

C. Research Guides and Bibliographies

Bibliographies and research guides will help you identify the most important sources of foreign and comparative law, give you advice about developing research strategies and explain the techniques of using foreign legal materials.

Foreign Law Guide (<http://search.library.duke.edu/search?id=DUKE003347091>) is an indispensable resource that is designed to locate primary sources of legislation for foreign jurisdictions. For each country there is a brief introduction to the legal system, a list of codifications, gazettes and other sources of law and then a section listing sources of law by subject. There are citations to materials both in the vernacular and in translation.. The print version, *Foreign Law: Current Sources of Codes and Basic Legislation in Jurisdictions of the World* (Ref. K38 .R49 1989), is updated through 2007.

Germain, Claire M., *Germain's Transnational Law Research: A Guide for Attorneys* (K85 .G47 1991-2006). Although no longer updated, this is a very useful guide with an emphasis on practical approaches to finding materials. The focus is on Western Europe, with advice on research methodology as well as lists of resources.

GlobaLex (<http://www.nyulawglobal.org/globalex/>) provides comparative, foreign and international law research guides organized by country and by subject. Useful introductory foreign and comparative research guides include:

- Rumsey, Mary, **Basic Guide to Researching Foreign Law** (http://www.nyulawglobal.org/globalex/Foreign_Law_Research1.html) outlines strategies for finding the laws of countries other than the U.S. (with a focus on finding codes, rather than cases, in English); also included are links to websites, guides and other secondary materials.
- Swift, Hester, **Comparative Law** (http://www.nyulawglobal.org/globalex/Comparative_Law1.htm), provides advice for comparative law research along with citations to print and electronic resources.

Information Sources in Law (Jules Winterton & Elizabeth M. Moys, eds.), 2d ed. (Ref. KJC76 .I54 1997 & online at <https://search.library.duke.edu/search?id=DUKE006371667>). This work provides an overview of the legal system for European countries and the U.K., and gives sources for legislation, treaties, and court reports. Also included are bibliographies and information on electronic resources.

Introduction to Foreign Legal Systems (Richard A. Danner & Marie-Louise H. Bernal, eds.) (K583 .I57 1994 & online at <https://search.library.duke.edu/search?id=DUKE007747822>). This book provides both an introduction to legal systems not based on the common law (including chapters on Chinese, Japanese and African legal systems) and practical advice on researching foreign law.

Lomio, J. Paul, *Legal Research Methods in the a Modern World: A Coursebook* (K85 .L66 2011) outlines basic research methods in common and civil law.

For additional bibliographies on specific legal systems, use a subject heading search in the Duke University Libraries online catalog: for example, *law--switzerland--bibliography* will find *Swiss Law Bibliography: English Language Materials on Swiss Law* (KKW3 .S85 2005).

Additional research guides can be found in the online catalog under the subject heading *Legal Research--[Name of Country]*. For example, the subject search *legal research--china* would locate *Chinese Legal Research* (KNQ47 .K67 2014) and *The Legal System of the People's Republic of China in a Nutshell* (Reserves KNQ70 .C498 2015).

III. FINDING FOREIGN LEGAL MATERIALS

A. Starting Places

The following sources will assist with locating foreign legal materials in their original language or in translation. Note that translations must be used with caution: They are not authoritative, they may not be up-to-date, and the quality of translation varies.

Foreign Law Guide (<http://search.library.duke.edu/search?id=DUKE003347091>) is an indispensable resource that is designed to locate primary sources of legislation for foreign jurisdictions. For each country there is a brief introduction to the legal system, a list of codifications, gazettes and other sources of law and then a section listing sources of law by subject. There are citations to materials both in the vernacular and in translation. This is the best place to start when you are looking for sources for statutes of another country.

GlobaLex (<http://www.nyulawglobal.org/globalex/index.html>) is a free website maintained by NYU Law's Hauser Global Law School Program. Its Foreign Law Research section provides detailed guides to researching the law of most countries, including some not featured in Foreign Law Guide.

Guide to Law Online: Nations (<https://www.loc.gov/law/help/guide/nations.php>) is a collection of links to constitutions, legislation, courts, and executive websites for nations and territories of the world.

International Encyclopaedia of Laws (online at <https://search.library.duke.edu/search?id=DUKE005443900>; print edition in library no longer updated). This publication is organized by topic, with 25 subject areas available. Individual encyclopedia volumes include “National Monograph” chapters, featuring a country-by-country analysis of that subject (countries covered vary by topic). National Monographs often include translations of statutes as well as references to relevant case law.

Multinational Sources Compared: A Subject and Jurisdiction Index (Ref. K85 .W65 2017 & online at <https://search.library.duke.edu/search?id=DUKE007808369>). This finding aid provides access to sources which compare multiple jurisdictions' practices in nearly 300 subject areas. Entries may be accessed by subject area or by country; entries note whether particular sources listed are available online (such as through Westlaw or other subscription databases).

The Duke University Libraries' online catalog will also provide results for foreign legal materials in print and electronic formats. You can find general works on the laws of specific countries in the online catalog by using subject headings. For example, ***The Italian Legal System: An Introduction***, 6th ed. (Library Service Center KKH68 .C367 2015 & online at <https://search.library.duke.edu/search?id=OUPE007683395>) could be found by using the subject search *law-- italy*. Older works may be cataloged under the historical name of a country; for example, *law-- germany*, *west* will yield different results from *law--germany*. If you wish to find works on more specific areas of law, search under the particular subject (e.g., *commercial law-- belgium*).

B. Constitutions

Constitutions for most countries have been translated. **Oxford Constitutions of the World** (<https://search.library.duke.edu/search?id=DUKE005934402>) is a subscription database including the text of current and historical constitutions for nations, dependencies, and territories, as well as works of constitutional commentary and analysis. HeinOnline's **World Constitutions Illustrated** library (<https://search.library.duke.edu/search?id=DUKE004313243>) also offers translated constitutions from about 190 countries.

Some of the best free websites that provide links to the texts of constitutions (and related documents) in English and the vernacular are:

- **Constitute Project** (<https://www.constituteproject.org/>) from the Comparative Constitutions Project (<http://comparativeconstitutionsproject.org/>);
- **Constitution Finder** (<http://confinder.richmond.edu/>);
- **Constitution Society** (<http://www.constitution.org/cons/natlcons.htm>);
- **International Constitutional Law Project** at the University of Bern (<http://www.servat.unibe.ch/icl/info.html>)

In the library, the book series ***Constitutional Systems of the World*** provides an overview and analysis of the constitutions of selected countries. To find individual titles, perform a keyword search in the online catalog for *constitutional systems and world and [name of country]*.

Historical constitutions in the vernacular can be found in the series ***The Rise of Modern Constitutionalism, 1776-1849***. To locate titles in this series, search the online catalog for the title "'Constitutions of the world from the late 18th century to the middle of the 19th century.'" Materials are also available through **Constitutions of the World from the late 18th Century to the Middle of the 19th Century Online** (<http://www.modern-constitutions.de/>; choose the "Public Access" option).

Print Sources for Historical Constitutions, 34 Int'l J. Legal Info. 539 (2007) (online at <http://scholarship.law.cornell.edu/ijli/vol34/iss3/8/>) lists sources of English-language texts of historical constitutional documents.

C. Codes and Legislation

Translations tend to be of particular codes or statutes, or collections of laws of a number of countries on a particular subject. The two basic approaches are to search by subject or by jurisdiction. In general, the laws that have been translated are those that will sell based on subject matter or geography. Laws related to commercial and investment matters are most often translated.

Foreign Law Guide (<http://search.library.duke.edu/search?id=DUKE003347091>), *Multinational Sources Compared: A Subject and Jurisdiction Index* (Ref. K85 .W65 2017 & online at <https://search.library.duke.edu/search?id=DUKE007808369>), and the Library of Congress's **Global Legal Information Catalog** (<http://www.loc.gov/lawweb/servlet/Glic?home>) are good starting places for locating the titles of codes for a particular jurisdiction, and the available translations.

Marci B. Hoffman & Robert C. Berring, *International Legal Research in a Nutshell*, 2d ed. (Reserves KZ1234 .H64 2017) also includes a list of websites containing national laws in translation.

You can locate codes in the online catalog using a keyword search. To locate translations, the search should include the name of the code in the vernacular and the words "english" or "translation." For example, if you were searching for a translation of the Mexican civil code, your search would be: *codigo civil and mexico and English*. Some examples of translated codes available in the library collection include:

- *The French Commercial Code in English* (KJV2194.318072.A52 F74 & online in Westlaw)
- *The Federal Civil Code of Mexico* (bilingual ed.) (KGF7611.A31 A265)
- *Russia & the Republics: Legal Materials* (KLA12 .U873)

Websites of international organizations sometimes include domestic laws of their member states. For example, see the **Legislationline** database (<http://www.legislationline.org>) from the OSCE Office for Democratic Institutions and Human Rights, and the World Bank's **Doing Business** website (<http://www.doingbusiness.org/lawlibrary>), which is a compilation of business laws and regulations from almost every member jurisdiction.

Commercial Laws of the World is a set of translated statutes which is available via the database Thomson Reuters Checkpoint: <http://search.library.duke.edu/search?id=DUKE003812967>. To access this set from the Checkpoint homepage, follow Table of Contents > International Tax Library > RIA Worldwide Tax and Commercial Law > then select a region/country to view available laws.

Specialized periodicals can also be good sources for translations of law on specific subjects. *European Current Law Year Book* (KJC30 .E97) is an annual consolidation of a digest service for legislation and case law from western Europe.

D. Court Decisions

Foreign Law Guide (<http://search.library.duke.edu/search?id=DUKE003347091>), **GlobaLex** (<http://www.nyulawglobal.org/globalex/index.html>), and **Guide to Law Online: Nations** (<https://www.loc.gov/law/help/guide/nations.php>) are helpful starting points to locate the websites of domestic courts in other countries, which may include decisions in the vernacular. Table 2 of *The Bluebook: A Uniform System of Citation* (Reserves KF245 .U55 2015) also includes information about courts and court decision publications for the listed countries. Some of these publications may be located in the Law Library through a title search of the Duke University Libraries' online catalog; decisions may also be available in research services such as Westlaw, Lexis Advance, or specialized databases for a particular country (<https://law.duke.edu/lib/lresources/#FCIL>).

Court decisions from other countries' domestic courts are rarely translated. Some appear in *International Law Reports* (KZ199 .A56), *Oxford Reports on International Law in Domestic Courts* (<http://search.library.duke.edu/search?id=DUKE003807875>), and *International Legal Materials* (Periodicals, Lexis/Westlaw & online, <http://search.library.duke.edu/search?id=DUKE004387020>). *European Current Law Year Book* (KJC30 .E97) includes abstracts of case law from western Europe. Cases may also be republished in periodicals and treatises.

Foreign Law Translations, a database with translations of about 1,000 decisions in the fields of constitutional, administrative, contract and tort law and is available at <https://law.utexas.edu/transnational/foreign-law-translations/>. The majority of cases are from France and Germany; there are some cases from Austria, Israel, and Italy as well.

IV. DICTIONARIES

The Goodson Law Library collects bilingual and multi-lingual legal dictionaries, as well as general dictionaries in a variety of languages. Some useful multi-lingual legal dictionaries in the Reference Collection are:

- *Elsevier's Legal Dictionary: In English, German, French, Dutch and Spanish* (Ref. K54 .E45 2001).
- *Le Docte : viertalig juridisch woordenboek = Dictionnaire de termes juridiques en quatre langues = Rechtswörterbuch in vier Sprachen = Legal dictionary in four languages* (Dutch, French, English, and German), (Ref. K54 .L4 2011).

To locate bilingual legal dictionaries in the Duke University Libraries catalog (<https://search.library.duke.edu/>), use a subject heading search for *law – dictionaries – [language]*; for example, *law – dictionaries – Spanish*. Non-legal dictionaries are also available in a variety of languages, and can be found with a subject heading search for *[language] – dictionaries – English*; e.g., *Chinese language – dictionaries – English*.

The online catalog will provide access to electronic versions of some legal or general dictionaries. Additional dictionaries may be available on websites, such as the **Legal Glossaries and Dictionaries** for legal interpreters which are available through the National Center for State Courts (<http://www.ncsc.org/Education-and-Careers/State-Interpreter-Certification/Legal-Glossaries-and-Dictionaries.aspx>).

V. ONLINE SOURCES

The legal research services Westlaw, Lexis Advance, and Bloomberg Law each contain legal materials from selected non-U.S. jurisdictions. Coverage varies widely from country to country.

- On **Bloomberg Law** (<http://www.bloomberglaw.com>), select All Legal Content > Select Sources by Jurisdiction to view available materials. Countries covered include Canada, the United Kingdom, Hong Kong, the United Arab Emirates, and the Cayman Islands.
- On **Lexis Advance** (<http://lawschool.lexis.com>), the International content tab provides access to legal and news materials for more than 150 countries. Coverage is strongest for Commonwealth and European countries.
- On **Westlaw** (<http://lawschool.westlaw.com>), select “International Materials” to view available sources. Countries with the strongest coverage include Australia, Canada, Hong Kong, Korea, and the United Kingdom; selected treatises (including translated statutes) are available for more than 25 other international jurisdictions.

Additional subscription databases are available through Duke University which cover multiple countries (such as **vLex**, online at <https://search.library.duke.edu/search?id=DUKE004081975>) or individual countries (such as **Westlaw China**, <https://search.library.duke.edu/search?id=DUKE007801808>). The Foreign & International section of **Legal Databases & Links** (<https://law.duke.edu/lib/lresources/#FCIL>) provides quick access to country-specific and multi-national research databases available at Duke.

VI. CITATION FORM

Two useful sources to help decipher legal abbreviations in other languages are Kavass and Prince’s *World Dictionary of Legal Abbreviations* (Ref. K85 .W67) looseleaf service, and the **Cardiff Index to Legal Abbreviations** (<http://www.legalabbrevs.cardiff.ac.uk/>), a free site which includes abbreviations from international citation guides.

Rule 20 of the *Bluebook* covers citation of foreign law materials. Table 2 lists selected foreign jurisdictions in alphabetical order, along with information about preferred sources for types of legal materials.

Guide to Foreign and International Legal Citations, 2d ed. (Ref. K89 .G85 2009), produced by the NYU School of Law *Journal of International Law and Politics*, illustrates the internal citation system of each jurisdiction that it covers. The 2006 edition is available at http://www.law.nyu.edu/sites/default/files/upload_documents/Final_GFILC_pdf.pdf.

International Citation Manager (http://openscholarship.wustl.edu/law_globalstudies/icm.html), from the staff of *Global Studies Law Review*, Washington University in Saint Louis School of Law, covers about 40 countries and includes information on the legal systems and legal research resources.

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