

IALL Guidelines for Public International Law Research Instruction

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Introduction

These Guidelines serve to aid law librarians and others who teach public international law (PIL) research. The document is not authoritative but has been drafted by IALL members across the globe and therefore offers an international perspective on the topic. IALL itself is aware that the method of, capacity for, and approach to PIL instruction vary greatly among institutions; therefore, the content exists as a guiding tool and should not be considered exhaustive or prescriptive.

The Guidelines address issues related to information literacy specific to PIL instruction. They supplement other more general and comprehensive research competency standards, such as those of the American Association of Law Libraries (AALL) [Principles & Standards for Legal Research Competency](#) and the British and Irish Association of Law Librarians (BIALL) [Legal Information Literacy Statement](#).

The Guidelines follow the structure of article 38 of the [Statute of the International Court of Justice](#) (ICJ Statute). Although this article formally only concerns the ICJ's methodology, it is widely accepted as a general delineation of the relevant PIL sources.

For ease of application, the Guidelines refer to individuals who deliver teaching or training sessions in any format as “instructors”, and those who receive instruction as “students”.

General skills and competencies

Students should be able to demonstrate awareness of the recognized sources of PIL, distinguishing primary from subsidiary sources.

Instructors should provide an overview of PIL but also explain the interactions of PIL with the relevant domestic legal system. Interactions will vary depending on a jurisdiction's established relationship with international law—for example, whether a jurisdiction is monistic or dualistic.

Instructors should also point out the international and domestic conditions for different PIL instruments. Although named differently, treaties, charters, conventions, declarations, and statutes, etc. may have many of the same legal implications. Instructors should be able to communicate clearly to students the domestic legal context and any applicable terminologies.

A law student proficient in PIL research should be able to demonstrate the following:

- The ability to identify PIL sources that relate to a specific issue;
- The capacity to formulate arguments on the relevant PIL, based on a source's quality, status, and applicability;
- The ability to craft and execute an effective PIL research methodology;
- The ability to recognize when sufficient research has been conducted to elucidate a PIL issue or determine if findings are incomplete; and
- The ability to find and cite authoritative PIL sources.

International conventions

(ICJ Statute, art. 38, no. 1 lit a)

“international conventions, whether general or particular, establishing rules expressly recognized by the contesting states”

Instructors should demonstrate and explain the process of researching international conventions and their relevance, generally by following these steps:

1. Determine if an international instrument exists that may apply to a particular issue.
2. Find the instrument in an authoritative source (taking account of language and resources available).
3. Determine if the instrument is applicable by noting the following:
 - a. The date of its entry into force;
 - b. The parties, ratifications, and signatures;
 - c. Any declarations and/or reservations; and
 - d. Any modifications made since the instrument was adopted.
4. Clarify the instrument's meaning and intent through background documents (*travaux préparatoires*).
5. Cite the instrument as found in an authoritative source.

Determining if a relevant international instrument exists is not an exact science. Searches of important treaty depositaries, such as that of the United Nations (UN), and general web searches may be necessary. Printed treaty collections will normally contain a topical table of contents that may offer some assistance. Printed indexes to treaties (e.g., the *United States Treaty Index*) offer a systematic, subject-based approach.

Discussion points can cover the resolution of conflicting treaty obligations, implied reservations, and other issues related to the validity of treaties (see, e.g., the Vienna Convention on the Law of Treaties, pt. V, secs. 2 and 3).

International custom

(ICJ Statute, art. 38, no. 1 lit b)

“international custom, as evidence of a general practice accepted as law”

Instructors should follow the usual process of researching international custom and related law as indicated below:

1. Find evidence of state practice by examining the following:
 - a. Records of a state’s foreign relations and diplomatic practices; and
 - b. Legislation concerning a country’s international obligations.
2. Identify the practice of intergovernmental organizations (IGOs) in the materials of such entities, including those listed below:
 - a. The UN Security Council;
 - b. The UN General Assembly; and
 - c. UN human rights committees, such as the UN Human Rights Committee (CCPR), UN Committee on the Elimination of Racial Discrimination (CERD), UN Committee on the Elimination of Discrimination against Women (CEDAW), and the UN Committee against Torture (CAT).
3. Find and cite international custom as articulated in an authoritative source, if available.

The requirements for identifying something as customary international law (CIL) are **regularity** and *opinio juris*. Students should be able to understand and apply both of these concepts.

With regard to state practice and international custom, some discussion points could be the following:

- How can we determine if an action was taken *ad hoc* or as a consequence of a perceived customary rule?
- Which actions of state representatives can be taken as evidence of state practice?
- Is a state bound by the interpretations of international law as voiced by its counsel in international legal disputes?

Relating specifically to the practice of IGOs, instructors might use the following as useful discussion points:

- What are the kinds of matters each organization deals with?
- What kinds of materials does the organization produce (e.g., UN committees’ general comments, concluding observations, and decisions on individual complaints)?
- What legal weight should be ascribed to these materials?
- What relevance do these materials have to our research question?

General principles of law

(ICJ Statute, art. 38, no. 1 lit c)

“the general principles of law recognized by civilized nations”

Students should understand and interpret the types of rules that may constitute general principles of law.

This concept can be difficult to grasp for law students, and there are several different interpretations of legal theory. As an overview, it is worth noting that the principles include those of international and national law as well as rules of legal logic. It might be useful for the instructor to provide summaries or suggestions of theoretical approaches that students can further explore.

Rules that have been designated as general principles of law include the right to self-preservation, equity, state liability, responsibility and reparations for illegal actions, respect for property rights, good faith, *pacta sunt servanda*, and procedural principles.

It may also be useful for the instructor to discuss the issues indicated below:

- What evidence is required to claim a rule is a general principle of law?
- What arguments can be made for and against considering the protection of the environment as a general principle of law?
- What makes [a rule] a good candidate for being considered a general principle of law?

Judicial decisions

(ICJ Statute, art. 38, no. 1 lit d)

“subject to the provisions of Article 59, judicial decisions [...] as subsidiary means for the determination of rules of law”

Students should be aware that judicial decisions relating to matters of international law can almost always be found on the websites of international and regional tribunals, such as those listed below:

- The International Court of Justice (ICJ);
- The International Tribunal for the Law of the Sea (ITLOS);
- The International Criminal Court (ICC);
- The World Trade Organization Appellate Body (WTO AB); and
- The ECtHR, IACtHR, ACJHR, etc.

An individual state's court decisions concerning international obligations are also often posted on those courts' websites.

Instructors should show how to find and cite these types of judicial decisions as published in authoritative sources.

Other possible discussion points might be the following:

- Does the subsidiary role of a judicial decision accurately reflect how international criminal courts solve cases?
- What are the formal and practical differences among different sources?

Teachings of the most highly qualified publicists

(ICJ Statute, art. 38, no. 1 lit d)

“subject to the provisions of Article 59 [...] the teachings of the most highly qualified publicists of the various nations as subsidiary means for the determination of rules of law“

Sometimes, it is necessary to refer to secondary sources in the process of researching PIL. This may be a more familiar process to some students than the sourcing of primary legal materials but broadly consists of

1. Consulting the relevant writings of legal scholars found in treatises, periodicals, and publications of regional international law associations; and
2. Citing legal scholars' writings correctly.

Citation methods

Citations to international legal materials should adhere to local citation standards, which will vary between and within institutions and jurisdictions. Constructing citations to international materials is very different than deriving citations to domestic materials. Teaching this skill is therefore an important part of a PIL research course and entails instructing students on the major print and online sources in the PIL context and emphasizing those that are the most important.

It is worth noting that there does not seem to be a single accepted hierarchy of treaty sources, at least as far as citation guides are concerned.

Citing international instruments

OSCOLA (*Oxford Standard for Citation of Legal Authorities*) (currently, 4th edition, 2012).

The [Citing International Law Sources Section](#) (2006) is available online. This OSCOLA supplement divides sources into three categories in hierarchical order:

1. Primary international treaty series (UNTS, *Consolidated Treaty Series*, and LNTS);
2. Official national series, such as UKTS and ATS (*Australian Treaty Series*); and
3. Other series, such as *British and Foreign State Papers*.

The most recent [4th edition of OSCOLA](#) (2012) no longer refers to the citation of international materials, instead referring readers to the New York University School of Law's *Guide to Foreign and International Legal Citation* (2nd edition, 2009). A 5th edition of OSCOLA is reportedly forthcoming in 2024, which may include new recommendations.

The Bluebook (currently, 21st edition, 2020).

The Bluebook is a style manual that contains the national citation rules most often used by US law students, faculty, and federal courts. International materials are covered in Rule 21.

If working in the United States, and/or following *Bluebook* citation rules, R.21.3. specifies that if the citation is to a treaty to which the United States is a party, the citation should be to *United States Treaties and Other International Agreements* (U.S.T.) or another US source in the first instance, with an optional second citation to a source published by an international organization (U.N.T.S., O.A.S.T.S., etc.). If the United States is not a party, *The Bluebook* prescribes citing a source published by an international organization, with usual citation hierarchies applying.

Particular Tables of interest are T2 – Foreign Jurisdictions; T3 – Intergovernmental Organizations; and T4 – Treaty Sources. Note that [T2 is available](#) without a subscription on *The Bluebook's* web page.

The New York University School of Law's *Journal of International Law and Politics* (N.Y.U. J. Int'l L. & Pol.), in its *Guide to Foreign and International Legal Citation* (2nd edition, 2009), suggests that, for a domestic readership, the citation should first be to a national treaty series, only citing the U.N.T.S. first if writing for an international audience.

The 22nd edition of *The Bluebook* is expected to be released in late spring/early summer 2025.

Citing judicial decisions

There are official reports (e.g., the International Court of Justice, *Reports of Judgments, Advisory Opinions and Orders*) and unofficial ones (e.g., *International Legal Materials*, *International Law Reports*, etc.).

The Bluebook R.21.5.8 (Other International Courts) advises the following when citing the decisions of international courts: "If cases cannot be found in official reports, cite the *International Law Reports* (I.L.R.) (1950–present) or the *Annual Digest and Reports of PIL Cases* (Ann. Dig.) (1919–49)".

Understanding citations with other standards

Students should be aware of the different core citation standards and understand citations to PIL materials using other standards. For example, US students using *The Bluebook* may also wish to familiarize themselves with OSCOLA and the [Canadian Open Access Legal Citation Guide](#).