Introduction to Sources of Law

And tools for their discovery & analysis

By

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Chief Librarian & Additional Registrar
AGENDA

• Process of Legal Research
• Primary & Secondary Sources of Law
• Tools for resource discovery and analysis
• Electronic Sources of Law
• Free and Open Access Resources
A legal professional needs to know

1. What is the applicable law and Jurisdiction
   - **National Law**
     - **Private International Law (choice of law/ conflict of law)** governs conflicts between private persons, rather than states
   - **Public International Law** concerns the treaty relationships between the nations, and persons which are considered the subjects of international law
   - **Transnational Law** set of rules generally regarded and accepted as binding in relations between states and between nations
   - **Supranational Law:** form of international law, based on the limitation of the rights of sovereign nations between one another e.g. EU Law
   - **Soft Law**: Non binding instruments

2. What are the *sources of law*
   - **Good Law**
Sources of Law

Selecting the Source of law largely depend upon the legal system of the country

- Types of Legal Systems
  - **Common Law** legislations, statutes, decisions by courts e.g. Australia, USA
  - **Civil Law** codified laws, statutes passed by Govt. e.g. Spain, Russia, Greece
  - **Customary Law/ Opinio Juris** social norms, treated as force of law, uncodified laws e.g. Tribal Areas in India, Jersey, Andorra
  - **Religious Law** based on religious precepts e.g. Jewish Halakha, Islamic Sharia - Maldives Islands, Saudi Arabia, Afghanistan, India
  - **Mixed Law** two or more systems apply cumulatively e.g. India, Japan

- Link: World legal systems
  
  http://www.juriglobe.ca/eng/sys-juri/index-alpha.php
Sources of Law

• **Primary**
  - Constitution of India
  - Statutes: legislation by Parliament, State & Union Territory Legislature
  - Case Law or court decisions
  - Treaties & International Agreements and
  - Customary Law: Private International Law, Domestic Customary Law

• **Secondary**
  - Books, Treatises, and commentaries
  - Journals, Yearbooks, and Law reviews
  - Dictionaries, lexicon & encyclopedias
  - Parliamentary Debates
  - Court Submissions
  - Databases
  - Organizations, People & Social Groups

• **Territory Sources and Resource Discovery tools**
  - Legislative Digests
  - Case Law Digest & indexes
  - Case Citators
  - Equivalence tables
  - Web based tools
Secondary Sources
A good way to start legal research to consult a good treatise on the subject or a commentary on a specific law. Commentaries provide a narrative of statute and case law providing a comprehensive interpretation of the law as applied in various situations and cases, and helps in identifying a good law. A legal professional would generally make a list of cases for further study to prepare arguments.

JGU library will contain a number of such commentaries on the subject, which could be identified through catalogue search [http://koha.jgu.edu.in](http://koha.jgu.edu.in)

Some of the popular commentaries are listed below:

Journals

• For more up to date, focused and research oriented discussions on a specific issue of law journals and law reviews are very useful. Often journal articles are helpful in supplementing the commentaries.

• JGU Library subscribes to 15000+ e-journals. These can be accessed from the E-resources page of Library website.

www.jgu.edu.in/library/e-resources
Law Lexicons

- Law Lexicons or Legal Dictionaries are useful in knowing not only standard meaning of a term used in a statutory enactment, but also how the courts have interpreted it in through various cases, and across different laws.

- JGU Library has access to a large number of printed as well as online legal dictionaries.
  - Stroud’s Judicial Dictionary 4 vols. (S&M)
  - P Ramanatha Aiyar’s Advanced Law Lexicon.4 vols.
  - LexisNexis
Legislative debates are most important part of the legislative process. These are often useful in deciding a case where court needs to ascertain “intention of the legislature” where the statute is not able to provide a clear meaning or direction. These are published officially by the respective legislatures.

Example: *House of Lords Debates, House of Commons Debates, Lok Sabha Debates*

http://164.100.47.132/LssNew/Debates/DebateArchive.aspx
Primary Sources
Constitutions

Constitutions/Charters/First Statute

_Fundamental principles of law by which a govt. is created._

- Constitution of India
  
  http://indiacode.nic.in/coiweb/welcome.html

  - Constituent Assembly debates. 12 vols. New Delhi: Lok Sabha Secretariat, 2009. -Print

  - Commentaries on Constitution of India
    - DD Basu
    - Seervai

- World Constitutions
Statutes

• **Session Laws**: laws bound in order of their enactment, before possible codification. By Legislative bodies: *Chronological Order by sessions*,

Acts of Parliament

  • Link: [http://indiacode.nic.in/](http://indiacode.nic.in/) ; [http://www.liiofindia.org/databases.html](http://www.liiofindia.org/databases.html)

• **Official Gazettes** Govt. publications after enactment of a legislature

_GOI Gazette Part II section 1: Acts, Ordinances and Regulations_

  • Link: [http://egazette.nic.in](http://egazette.nic.in) ; [http://egazette.nic.in/Searchmenu2.aspx](http://egazette.nic.in/Searchmenu2.aspx); [http://bombayhighcourt.nic.in/libweb/gazette/gazetteofindia.html](http://bombayhighcourt.nic.in/libweb/gazette/gazetteofindia.html)

• **Official Publications**: *Individual Bare Acts Published by Ministry of Law*,

  • **India Code** <[http://indiacode.nic.in](http://indiacode.nic.in)>
Statutes

• **Compilations of codified laws**: a collection of statutes existing as well as in force as *Annual Volumes or loose-leaf form* usually by subject

e.g. *Halsbury’s Statutes of England*, *Halsbury’s Annotated Statutes of India*, *Civil code*, *Labour Code* etc.

• **Compilations of specific laws by private publishers**: like AIR MANUAL, *Halsbury’s Laws of India*, *Civil Court manual*, *Criminal Court Manual*

• **Administrative rules/regulations**: *Published in GOI Part II Section 3*
  • Link: [http://egazette.nic.in](http://egazette.nic.in); [http://egazette.nic.in/Searchmenu2.aspx](http://egazette.nic.in/Searchmenu2.aspx)

• **Legal databases**
Court Decisions

• Official Law Reports
  • Supreme Court Reports http://supremecourtofindia.nic.in/scr.htm
  • Law Reports: (AC, CH, QB, FAM), WLR

• Government Official Database & Courts
  • SUPLIS http://supnet.nic.in/suplis/main.html [for Supreme Court Caselaws, 1950 onwards]
  • JUDIS http://judis.nic.in/supremecourt/chejudis.asp [for Supreme Court of India and several High Courts judgments, 1950 onwards]
  • http://www.supremecourtofindia.nic.in/

• Law Reporters: Selected judgements published after value addition by private publishers
  All India Reporter, Supreme Court Cases, Criminal Law Reports, Labour Law Reports etc
Judgements in Law Reporters

- Summary
- Headnotes
- Indexes
  - List of Cases by party
  - Subjects and Statutes
  - Judgement
- Print Law Reports in JGU Library
  - All India Reporter (            )
  - Supreme Court Cases (    )
  - All England Reports
  - US Supreme Court Cases
1969 (1) Supreme Court Cases 243
(From Allahabad)

[BEFORE J. M. SHELAT, V. BHARGAVA AND C. A. VAIDIALINGAM, JJ.]

AGRA ELECTRIC SUPPLY CO., Ltd. Appellants;

Versus

THE LABOUR COURT, MEERUT AND ANOTHER Respondents.

Civil Appeal No. 1631 of 1967, decided on 8th November, 1968

Industrial Disputes Act, 1947—Section 33, read with Uttar Pradesh—I. D. Act, 1947—Section 6-H(2)—Rule 16(2) of the U. P. I. D. Rules—Prior award as to grant of uniforms—Practice adhered to till 1953—But not from 1954-60—23 workmen move Labour Court for recovery of moneys equivalent to cost of uniforms not supplied by appellant from 1954-60—Applicants absent and application dismissed for default—New application by seven other workmen for recovery of cost for same period—Appellants contention on a preliminary issue that same kind of application cannot lie—After the dismissal order negatived by Labour Court Appellants Writ Petition on same matter dismissed by High Court—Special Leave appeal to Supreme Court.

Held: dismissal of the application by 23 workmen was not on merits. So, such an order cannot be deemed to be an order under Rule 16(1) so as to compel the parties to have the matter re-opened under Rule 16(2). The present application by the seven workmen was in no sense barred by the prior order of dismissal of default. Even in the absence of parties Rule 16(1) enjoins the tribunal to ‘proceed with the case in his absence and pass such order as it may deem fit’. If the order was thus passed on merits, only then Rule 16(2) can apply. Appeal dismissed on the preliminary issue.

The Judgment of the Court was delivered by

VAIDIALINGAM, J.—In this appeal, by special leave, the appellant challenges the order of the Allahabad High Court, dated May 11, 1967, dismissing Civil Miscellaneous Writ Petition No. 1647 of 1967.
Law Reports in JGU Library

Supreme Court Cases [1969-] (Print)
Supreme Court Journal [2014 onwards] (Manupatra)
All India Reporter [1921-2013] – Print
AIR Supreme Court Weekly [1991-2013] in AIR CD-ROM Database
Criminal Law Journal [1950- (CD-ROM)
AIR Accident Claims & Compensation Cases
Divorce and Matrimonial Cases
Labour and Industrial Cases
Labour Law Journal
Madras Law Journal (Civil)
Madras Law Journal (Criminal)

English Reports (UK) (Prior to 1936) Hein Online

All England Law Reports [1936-2013] – Print
Butterworths Company Law Cases
Butterworths Human Right Cases
US Supreme Court Reports

http://dspace.jgu.edu.in:8080/jspui/handle/123456789%2010739/117
Treaties & International Agreements

• Official sources of treaties
  • **Indian Treaties Database** by Ministry of External Affairs, search by specific subject, agreement type or country; or simple keywords.
  • **LII of India- Indian Treaty Series** (INTSer) full-text treaties of Indian bilateral treaties from 1947-2009
    [http://www.liiofindia.org/in/other/treaties/INTSer/](http://www.liiofindia.org/in/other/treaties/INTSer/)

• Subscribed Legal Databases
  - SCC Online - **Bilateral Treaties of the India and Other nations**
  - Westlaw India Combined Treaties (CMB-TREATIES)
  - Lexis Nexis Academic - **Treaties & International Agreements**
  - HeinOnline- **U.S. Treaties and Agreements Library**
Customary Law

Practices that are treated as force of law

Private International Law

Deals with the law applicable to foreign nationals or entities

Public & official documents like press releases, newspapers, diplomatic papers, decrees, legislation dealing with international matters, legislative acts of intergovernmental organizations, Audio or video discussions.

Link: Ministry of External Affairs <http://www.mea.gov.in/index.htm>


Domestic Customary Law

Uncodified laws, rules and regulations that are agreed upon by people of a nation e.g. Religious customs, tribal customs. Includes customs, beliefs of indigenous people

Courts in India recognize customs as law, only if the custom is:

1. Ancient or immemorial in origin
2. Reasonable in nature & continuous in use
3. Certain in its extent and invariable in its practice & operation e.g. protection of tribal indigenous communities and their rights

Source: Public & official documents, legislation dealing with the kind of matters, Audio or video discussions, Tratises: Dharmsastra (Manusmriti), Hadiths
Territory Sources & Resource Discovery tools

**Legislative Digest** means to accessing any act or statute of a nation

**Case Law Digest & indexes** means of accessing case law by topic or subject; headnotes organized by topics and issues in the case

- *Supreme Court Digests, AIR Fifty Year Digests (1901-1950), Quinquennial Digests (every five years), annual digests*
- All India Reporter: The fifty Years' digest, 1901-1950: Civil, Criminal & Revenue. Nagpur: All India Reporter.
Equivalent Citation Table or Comparative Table

Tool to know the parallel citations of cases published in different journals

Link: http://supremecourtofindia.nic.in/ect.htm

Case Citators

Tools for case law research which provide information like the correct citation for a case; whether the case has been reported multiple times; a case has been considered, applied, distinguished, or overruled.

- Supreme Court Case Citator. 4 vols. Nagpur: LexisNexis, 2007 - Print
- CaseBase Case Citator <http://www.lexisnexis.com.au/en-AU/products/CaseBase-Case-Citator-online.page>,
- Shepardizing Online <http://www.lexisnexis.com/en-us/products/shepards.page> (LexisNexis) - Online
- FirstPoint <http://www.thomsonreuters.com.au/products/firstpoint/>,
- KeyCiting Online (Thomson Reuter) - Online
- JustCite (<Justis> <www.justcite.com> - Online
- LawCite <http://www.austlii.edu.au/lawcite/> free legal case and journal article citator - Online
- Google as resource locator - Online
Case Citator

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### Equivalent Case Table

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Electronic Resources
Electronic Sources of Law

• Usually cover a variety of sources and subjects
  • Information Type: Primary, secondary
  • Formats: Journals, news,
  • Period

• Access
  • IP Based institutional access (within the campus)
  • Outside the campus: VPN
  • Some resources may require user ID and passwords

http://www.jgu.edu.in/library/content/e-journals-multi-format-resources
Electronic Resources in Law at JGU Library

• **SCC Online**
  Indian Case-Law, Indian Statutory Law including central statutes, circulars, notifications, instructions, rules, regulations etc.

• **Manupatra**
  Indian Supreme Court, High Courts, Tribunals and Commissions cases & judgements, orders; Acts/ Statutes

• **Taxmann’s Corporate, Direct & Indirect and International Taxation Law**
  Statues, Case Laws & Commentaries on Domestic and International Taxation & Corporate Laws

• **AIR Comprehensive Database (CDROM, Online) 1950-**
  AIR SCW, AIR High Courts and Criminal Law Journal

• **AIR Privy Council Database (CDROM) 1914-1950**

• **Westlaw India**
  UK & US legal material, Indian Court judgements

• **LexisNexis Academic**
  Federal and state cases and statutes including U.S. Supreme Court Decisions since 1790.

• **HeinOnline**
  Around 1757 law related periodicals, 127 U.S. treaties & agreements, 3641 World Constitutions
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<td>Meghalaya High Court</td>
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Searching

• Skill Required:
  • Common Boolean Search operators
  • Familiarity with the proprietary search engine, and contents layout

• Constructing searches
  • Free word searches: Literal, phrase
  • Advance searches: form, period, origin
  • Iterative search (refine your search)

• Boolean Operators
  • Basic Operators: AND, OR, NOT (BUTNOT)
  • Other Operators
    • Quotation marks “ “ for phrase searches
    • Parentheses ( ) for combining terms/phrases using more than one operators
  • Proximity Operators
    • Adj adj1 adj2
    • Blind Cards * $ #
Web Research

Pitfalls of free web resources

1. Quality & Bias-
   • Unreliability, no “gatekeeping”.
   • Reliable source:
     • Formal authority, Public authority
     • Cognitive authority- if everyone trusts a tool, if everyone uses that tool, then that tool is authoritative

2. Tendency to limit search to only web resources
Free access to Legal Information

- Most of the primary legal information is produced by public authorities
- Law must be published and available freely
- Free access to Law Movement
  - Legal Information Institute [http://www.law.cornell.edu/](http://www.law.cornell.edu/)
  - Legal Information Institute of India: [http://www.liiofindia.org](http://www.liiofindia.org)
Open Access Resources

• **Lawnotes.in/Indian Acts** digital archive, in chronologically order, for Indian Courts judgments and case law.

• **The Public Library of Law (PLoL)** cases from the U.S. Supreme Court and Courts of Appeals; cases from all 50 states back to 1997; Federal statutory law and codes from all 50 states; Regulations, court rules, constitutions.

• **casetext.com** judicial opinions, statutes, and regulations; cases annotated by growing community of lawyers and law professors; community pages like criminal law, constitutional law, copyright law, ADR, Medical Law, Military Law, Tax Law

• **LawCite** international legal case and journal article citator.

• **Constitution Finder** links and in some instances copies of Constitutions from around the world.
Thank you