The Skills They Need: International and Foreign Legal Research

MARY RUMSEY
University of Minnesota Law Library, Minneapolis, Minnesota, USA

Law schools should offer classes in international and foreign legal research (IFLR) because the increasing globalization of law practice requires new skills of lawyers. Moreover, internationalized law school programs and curricula, including human rights clinics, exchange programs, and transnational law courses, require complementary research skills. Currently, few schools offer a stand-alone IFLR class. This article describes an ideal IFLR class, which would cover public and private international law, foreign law, and selected topics, and provide students with basic IFLR skills. The author notes that librarians are best suited to teach such a class because of their extensive knowledge of IFLR resources and usage.

KEYWORDS legal education, law librarianship, foreign legal research, international legal research

INTRODUCTION

This article outlines the reasons why law schools should offer classes in international and foreign legal research (IFLR) and proposes a model for such classes. The first section notes the increasing globalization of law practice and its impact on law school programs and curricula. The second section describes the current state of IFLR teaching. The third section outlines the subjects and structure of an ideal IFLR class. I conclude by explaining why IFLR should be taught by librarians.

I would like to dedicate this article to Marci Hoffman for her endless generosity in sharing her expertise with me and with many others.

Address correspondence to Mary Rumsey, University of Minnesota Law Library, 229 19th Avenue South, Minneapolis, MN 55455-4300. E-mail: rumse006@umn.edu
GLOBALIZATION OF LAW PRACTICE

To state that law practice is increasingly global is to go beyond cliché into the realms of those truths we hold to be self-evident. “The pace of global commerce now requires lawyers to facilitate transactions and resolve disputes in an environment that spans a wide array of legal systems with vastly different traditions.”¹ International law now affects domestic law in myriad and sometimes unexpected ways: the Convention on the Law Applicable to International Sale of Goods² and its successor Convention³ may override the Uniform Commercial Code;⁴ child custody and support decisions may be affected by the Hague Conventions;⁵ and trade law extends its tentacles everywhere.⁶

According to a recent survey, in the past seven years, the 250 largest U.S.-based law firms have dramatically increased the number of attorneys working abroad.⁷ In addition, foreign law firms have begun opening offices in the United States.⁸ More striking than large-firm activity, however, may be the change in small-firm, small-town practice. One attorney who heads a three-lawyer firm in St. Paul, Minn., states:

I consider myself as only having a Minnesota practice. Yet in the last year, I have found myself having to research Russian probate law and Hong Kong real estate law in order to decide how to proceed or advise local clients. Since I do not know Russian or Mandarin, let alone read Cyrillic or Chinese characters, it was quite a challenge. This was in addition to more ordinary experiences like needing to have a witness testify who only spoke Spanish or reading a letter from a Swiss Bank that was written in French or interview and advise clients who mostly spoke Somali.⁹

Further, a small-firm lawyer in Madison, Wis. observes:

The amount of work I do that has international elements has grown significantly. Our clients realize that globalization presents both increased competitive threats and new market opportunities. There’s also more interest among foreign companies in locating manufacturing and distributing facilities in the Midwest. This is especially true of European companies, as the U.S. dollar has declined in value against the Euro. My business/intellectual property (IP)-oriented practice has become increasingly international in just the last five years.¹⁰

These are just two examples of the impact international and foreign law has on the everyday practice of law. The challenge to law schools is to craft an adequate curricular response to globalization that does not take emphasis away from the many educational needs of students whose legal careers will focus on U.S. law.
Law schools have begun to reflect these changes. They have added classes: a 2001 study by Judith Wegner found that one of every six new courses was international or comparative in scope, and eighty-four percent of schools responding had added at least one new international or comparative course. Some schools, such as the University of Michigan, have moved from offering such courses to requiring them. Harvard’s recent curriculum revision also makes some exposure to foreign and international law mandatory.

Law students routinely express interest in foreign and international law. In part because of such interest, many law schools have expanded summer-, semester-, or year-abroad programs; recruited more foreign exchange students; and launched or enlarged their LL.M. programs. Other schools have established branch campuses abroad or entered into joint ventures with foreign law schools to grant degrees in other countries.

In addition to doctrinal classes, law schools have begun incorporating foreign and international law into their clinical programs. A study by Deena Hurwitz found only three clinical programs on human rights in 1992 but found more than a dozen of them, along with more than twenty human rights centers, ten years later. The number of such programs has increased even more rapidly since 2002. Moreover, clinical programs without a specifically international focus, such as domestic violence clinics, now see many clients who bring foreign and international issues through their doors.

Law schools’ increasingly global perspective also shows up in the growing number of transnational law reviews. One scholar found a more than 450 percent increase in the number of such reviews during the twenty-five-year period ending in 2001. “Law schools in the United States currently publish over 330 specialized law journals edited by students, the most common of which, numbered at over 70, are about transnational law. That translates into about forty-five percent of all accredited law schools publishing a student-edited transnational journal.”

The increased internationalization of U.S. law schools was well summarized by Catherine Valcke in 2004:

Course offerings in international and comparative law abound; student and faculty exchanges are proliferating; transnational recruitment of faculty and students is expanding; international student initiatives such as mootings, journals, and internships are multiplying rapidly; and visitors’ programs and transnational collaborative research projects are ubiquitous.

WHY IFLR?

Exposing students to international or foreign law will not help them much if they have no tools to research the law in those jurisdictions. All U.S. law
schools teach U.S. legal research; learning to research is part of becoming a lawyer. Preparing students for modern law practice requires not only a doctrinal component but a research component, and this requirement applies to international and foreign law.

**INADEQUACY OF FAMILIAR RESEARCH TOOLS**

For legal research purposes, if foreign countries were just another jurisdiction like a U.S. state, no one would advocate special classes on how to research their laws. But we have no West Digest system for Mongolia (or even for France), no Shepard’s Citators for Nigerian case law, and no annotated statutes for China. Foreign legal systems and the international legal system invoke different sources of law, may lack familiar institutions such as jury trials, and have the unnerving habit of using languages other than English.

These differences matter enormously in IFLR. If students learn only U.S. research tools, they will be unprepared to tackle modern legal practice.

As law librarians and others have documented, law students overwhelmingly use computer-assisted legal research (CALR) during law school. Yet experts agree that Westlaw and LexisNexis, the two main CALR vendors, do not meet researchers’ foreign or international law needs. Equipping a student to use CALR will not solve the problem of global legal research.

**INADEQUACY OF FAMILIAR RESEARCH TECHNIQUES**

Not only does IFLR require different tools from U.S. research, but it requires different techniques. Lee Peoples writes:

> A lawyer from a civil law jurisdiction will begin researching most issues by looking for the appropriate article in one of her jurisdiction’s codes. In contrast, a lawyer from a common law jurisdiction usually begins his or her research by searching for relevant cases. Foreign, comparative, and international law (FCIL) research projects often involve aspects of international, foreign, and domestic legal research. For example, a question about the North American Free Trade Agreement (NAFTA) might also implicate Mexican legislation implementing the NAFTA agreement, Canadian case law interpreting the agreement, and regulations issued by a U.S. administrative agency implementing the NAFTA requirements.

International law, particularly international customary law, requires a wholly different type of research from that used in domestic law. To show the existence of a rule of customary international law, a lawyer musts
examples of state practice, whether manifested in treaties, national legislation and court cases, diplomatic correspondence, or other miscellany. While treaties can be roughly analogized to statutes in the sense that they both create binding rules, treaties, unlike statutes, are usually drafted in indefinite and sweeping language. Thus, to discern obligations under a treaty, a lawyer must often explore other sources, such as the travaux préparatoires (preparatory works), interpretive commentary from the body charged with treaty implementation, scholarly analyses, and national legislation.

Research in civil law countries takes equally unfamiliar paths. As the major statutory codes in civil law jurisdictions (most typically civil, criminal, commercial, civil procedure, and criminal procedure codes) are designed to address comprehensively all potential legal issues, the researcher there aims to find a code section, or a principle derived from the code, to apply to her research question. Civil lawyers rely heavily on scholarly commentaries or doctrine to interpret code sections and understand their application. Case law has little or no role in legal research in most civil law jurisdictions, which lack digests of case law that common law researchers use to organize cases and expound on legal rules. Interestingly, even civil law professors agree that researching civil law is more difficult than researching common law.

CURRENT IFLR TEACHING

Currently, U.S. law students are exposed to IFLR, if at all, in one of three ways: 1) in an elective, stand-alone class; 2) as part of an advanced legal research (ALR) class, nearly always elective; or 3) within a doctrinal class or seminar, such as international human rights law, comparative constitutional law, or trade law. In the latter case, a faculty member allots some time during class in which a librarian guest-lectures to introduce IFLR techniques, or the faculty member teaches research herself.

According to an e-mail survey, thirty-two law schools offer a stand-alone IFLR class without incorporating any IFLR instruction into their ALR class. Twenty schools incorporate some IFLR into their ALR class but offer no separate IFLR class. Fifteen schools offer both a stand-alone class and an ALR class that incorporates some IFLR instruction.

Incorporating IFLR instruction in doctrinal classes may elevate its perceived importance in students’ eyes. Nonetheless, this option is probably the least successful method. The session is usually designed to prepare students to research international or foreign law so they can write a paper about it; most students will not begin their research immediately and will not retain the information for long. Rarely do professors assign research exercises in conjunction with the session, so students have no opportunity for hands-on reinforcement.
Including IFLR into ALR classes qualifies as better than nothing. In most ALR classes, students complete exercises that force them to use the tools they learn about. Thus, students whose ALR classes incorporate a lecture on IFLR will at least use the tools shortly after their exposure to them in class. Nonetheless, spending one class on IFLR basics, as is the most common practice, cannot equip students with much more than an awareness that research will be different “across the border.”

THE STAND-ALONE CLASS

For students to gain a foundational understanding of IFLR, they should take a stand-alone class. The number of schools offering such classes has increased in the past few years. Among specialized research courses, an IFLR course is the most common class that schools offer. Although it is unrealistic to expect law schools to require all students to take IFLR courses, it is reasonable to expect every U.S. law school to offer one as an elective. In that case, at least those students who expect to seek out or take on international or foreign legal problems can prepare themselves to do so.

While a few schools require international law as a prerequisite to IFLR classes, I have found students manage to pick up the necessary background if exposed to it briefly in class. In other words, students do not need to complete a class in public international law before they understand such concepts as treaty reservations or the amorphous nature of customary international law. The only prerequisite should be the completion of first-year legal research training; I have had LLM. students who floundered without such training.

SUBSTANTIVE COMPONENTS

While course content varies among schools, all IFLR courses share a common core. This core forms the minimum content of an adequate research course. First, every class deals with treaty research, including finding treaties, determining their status and any relevant reservations, and researching the travaux préparatoires—documentation of the treaty’s drafting history. Second, all courses cover customary international law—the rules of international law that most nations follow most of the time, out of a sense of legal obligation. Third, every class examines at least one intergovernmental organization (IGO) (e.g., the United Nations) with an eye toward understanding its structure and its documentation. Fourth, every course covers foreign law. Fifth, nearly every course looks at the European Union: finding directives and regulations (secondary legislation), cases, and perhaps national implementing measures—i.e., the laws or regulations enacted at the member-state level to
implement an E.U. directive. Sixth, nearly every course looks at the World Trade Organization (WTO) (and, in some cases, NAFTA).

While most courses do not cover cross-border business transactions, I have concluded that the likelihood of students needing to know how to research them is high enough that the ideal IFLR course will cover this topic. Thus, the class should introduce students to sources for information on joint ventures, foreign licensing, contracts for the sale of goods or services, dispute resolution, and related matters. Students need cross-border more than public international legal skills—not many will work in public international law; more will work on business matters.

In addition to the common core described above, some existing FCIL courses include sessions on particular jurisdictions, such as Canada or the United Kingdom as paradigmatic common law countries, or France as a paradigmatic civil law country. Certainly, examining a country in depth—particularly a civil law country—is an excellent way to convey the major differences between legal systems. An alarming proportion of law students and lawyers assume that foreign legal systems must mirror the U.S. system. As the only foreign and international law librarian in Minnesota, I get phone calls from lawyers wanting sources like “civil jury instructions for Germany” (which has no civil trial system); “forms and explanations of how to probate a will in France” (which has no probate); and “just one or two key cases on the law of insurance contracts in the Netherlands” (leaving aside the lack of English translations of Dutch court decisions, it would be hard to identify “key cases” in a system in which cases are not primary legal sources). Although doctrinal classes might alert students to some differences, it is the practical task of finding legal sources that makes the differences sink in.

While treatment of foreign law may vary in depth, students must learn some of the key ways in which civil law jurisdictions differ from common law ones. Examples include the difference between public and private law, the lack of stare decisis, the greater participation by civil law judges in court cases, and the overarching structure and philosophy of the civil codes. Each of those differences affects how a lawyer conducts research. For example, court actions in public law (criminal law, for instance) typically are heard within a separate court system from private law actions (commercial disputes, for instance). As civil law systems incorporate the principle of stare decisis only in limited ways, if at all, tools, such as citators, are completely lacking. In part because of the more active role in litigation of civil law judges, discovery is conducted on a much more restricted scale than in common law systems, particularly in the United States.

Many IFLR instructors also examine subject areas, such as human rights, IP, and cross-border dispute resolution. While acquaintance with these topics may not be essential, the instructor can use the topics to reinforce important concepts and familiarize students with commonly used IFLR tools. While teaching IP research, for example, the instructor may ask students to find
relevant treaties, determine whether a particular country is a party, and then find an English translation of that country’s copyright or patent act. Teaching cross-border dispute resolution, similarly, might call for students to get acquainted with tools, such as the State Department’s Judicial Assistance Web pages, which provide information on foreign service of process, discovery, and related topics.

Beyond the core topics, it is impossible to predict what subjects a student may encounter as a practitioner. Instructors may choose, then, to explore topics that reflect student interest, while reinforcing skills and concepts. A law school with a strong maritime law program, for example, might cover research on that topic. At the University of Minnesota Law School, the IFLR course includes human rights because many of the students express interest in it. At the first session of the class, I survey the students about their interests and sometimes adjust the syllabus to reflect those interests.

ESSENTIAL TOOLS

Just as an ideal course must cover the common core identified above, it must also introduce students to a set of essential tools. Some of these, such as legal periodical indexes, including the Index to Foreign Legal Periodicals, can be introduced and then re-used at various points in the class. Instructors must also emphasize the efficiency and utility of secondary sources, particularly to students whose principal idea of research is searching for cases in a Westlaw or LexisNexis database. Regardless of the substantive topic, students can be asked to identify useful legal encyclopedias and law review articles. Similarly, students must learn to identify and use research guides, journal index headings, Library of Congress subject headings, and other finding aids. Any session on IFLR, no matter how brief, should include exposure to Globalex, the online collection of foreign and international legal research guides, and similar collections from the Law Library Research Xchange (LLRX).

Other tools are more closely tied to specific course topics. In learning treaties, for example, the students should use the U.N. treaty database, Westlaw and LexisNexis treaty databases, and perhaps some of the specialized or national treaty collections, such as the United Nations Conference on Trade and Development (UNCTAD) database of bilateral investment treaties, or the French national treaty database, Base Pacte. Sources for treaty status information and for travaux préparatoires should also be covered at this point. Once students are introduced to the tools, exercises should reinforce their use throughout the course.

For locating rules of customary international law, the focus should be on secondary sources, such as treatises and the Restatement of Foreign Relations Law, because for most researchers, these are adequate tools. The instructor should introduce sources for more detailed research on customary
international law—the digests of state practice, yearbooks of international law, and the underlying documents—treaties, diplomatic correspondence, resolutions, and other documents of IGOs. Because few students will go on to work intensively with public international law, however, one “brutal choice in curricular design” is to settle for some acquaintance with these sources, rather than extensive work.

Examining at least one IGO gives students an essential grounding in these major transnational law players. Students should understand the typical features of IGOs—secretariats, quasi-legislative organs (e.g., the U.N. General Assembly), and—often—dispute resolution bodies (e.g., the International Court of Justice). From a research perspective, students should be able to find charters, resolutions, reports, and the decisions of dispute resolution bodies. Exercises can then ask students to apply what they have learned about one IGO to researching another.

Teaching foreign legal research necessarily focuses on materials in English. In any particular class, some students will know no foreign language, and others will have varying degrees of proficiency in a number of languages. Few, if any, have “legal proficiency” in a foreign language, similar to most U.S. practitioners who do not know a foreign language well enough to feel comfortable using legal materials in that language. Thus, most of the demand is for English-language materials. Purists may object that relying on English-language sources for foreign legal research has many pitfalls—translations lack authority, usually lack currentness, and may not be entirely accurate; key terms have no real English equivalents; secondary materials are often incomplete or unavailable. All true. Nonetheless, U.S. attorneys will continue to demand and use these materials for lack of anything better.

The foreign research part of the course, then, should include warnings about the risks of operating in a jurisdiction without reading its legal sources in the original language. To reinforce advice about translations, the instructor may want to demonstrate the difficulty of reading foreign legal materials and the inadequacy of software translation programs. One way to do this is to collect versions of legislation in translation for several languages—i.e., locate both the English and the vernacular and start by giving each student a few sections of a code or law in the vernacular. Students who know a foreign language can be asked to try making a rough translation. The students who read no other language can be asked to use popular online translators such as Babel Fish on similar sections. (EUR–LEX [http://eur–lex.europa.eu] is an excellent source for translations, but samples of laws from many other languages can be collected from various free Web sources.) Having students take five to ten minutes to try translating foreign law and then giving them professional translations usually convinces them that foreign law cannot be easily translated. In my experience, students are usually amused by the failure of online translation programs to handle legal language; ideally, the experience will arm them against reliance on such programs.
If students learn only one thing during coverage of foreign legal research, they should learn about sources for English-language translations, especially Reynolds & Flores’ *Foreign Law Guide*. This listing of major legislation and codes, including references to English translations where available, deserves repeated use in class exercises. Another key tool is the Law Library of Congress’ Multinational Collections Database, pointing researchers to treatises with both primary law and commentary that cover multiple jurisdictions. In discussing these collections, instructors should convey the concept of “subject collections.” Organized by subject rather than jurisdiction, these resources include well-established print sources, such as *Investment Laws of the World*, and databases, such as World Intellectual Property Organization’s Collection of Laws for Electronic Access (a successor to WIPO’s print collections of IP laws). Although many subject collections (e.g., *Digest of Commercial Laws of the World, International Joint Ventures*) focus on summaries and commentary rather than providing complete translations of statutes, for some jurisdictions, these sources are the best available information.

The E.U. component of the class offers a chance for instructors to reinforce LexisNexis and Westlaw skills, as many students have little idea of how to find a database, determine its scope, or formulate an efficient search. The free E.U. sources, such as the invaluable EUR-Lex, also belong in this section. Students should learn how to find directives, regulations, national implementing measures, and European Court of Justice cases. Moreover, students should be asked to explore the Directorate-General sites (analogous to U.S. federal agency sites) for various topics, because of the wealth of useful information on E.U. law these offer.

Covering the WTO and perhaps NAFTA gives the instructor the chance to reinforce lessons on IGO structure and research techniques. Availability of WTO/NAFTA materials on Westlaw and LexisNexis gives students another chance to refine their skills, but the course should also cover online finding tools like the WTO Analytical Index: Guide to WTO Law and Practice. Because of the proliferation of current awareness sources, such as *Inside U.S. Trade*, trade works well as a vehicle to teach students how to use blogs and other current awareness sources.

The final core topic, cross-border business transactions, may be harder for instructors to define. Some instructors may even want to lump international trade under this heading. Others may decide to include or exclude cross-border dispute settlement. Useful sources to introduce include the Case Law on UNCITRAL Texts (CLOUT) database on U.N. Commission on International Trade Law (UNCITRAL) cases, the concept of “doing business” guides (some of which are available on LexisNexis), *Worldwide Tax and Commercial Laws* (formerly *Commercial Laws of the World*; available by subscription through Research Institute of America Checkpoint), *Martindale-Hubbell’s International Law Digest*, *Transnational Law Digest & Bibliography*, and
similar tools. Reinforcing the use of finding tools (research guides, library catalogs, periodical indexes, etc.) at this point works well.

Anyone with experience in IFLR could add resources to this list, but to ensure that students learn the tools well enough to remember them, it is better to make some brutal choices and offer enough opportunities for the students to become familiar with the chosen tools.

**INSTRUCTIONAL FORMAT**

After years of experimentation, I believe the best approach for teaching IFLR is to lecture briefly, usually with presentation software and screen captures, spend time in class having students work through sample exercises, and then assign exercises for students to complete outside of class. The in-class exercises need not cover every question on the weekly exercise but should introduce major databases and other tools. Inevitably, exercises will use a “scavenger hunt” format, describing the type of information needed. I have found students benefit from exercises that move from specific “known-item” finding (e.g., “Find a bilateral investment treaty between Argentina and Germany”) to more open-ended questions (e.g., “Find a book that covers licensing patents in foreign countries”). While I score exercises rather than using a pass/fail approach, I sometimes include questions that I would hardly ever mark “wrong.” For example: “Using the library catalog, identify what you think would be the most useful book for a lawyer who wants to set up a joint venture for his client in China and explain why you chose it.” The instructor’s feedback on this question is a chance to help students learn how to spot useful materials, for example, recent or recently updated practice-oriented, comprehensive treatments. To get students in the habit of looking at Help documentation (both in print and electronic resources), exercises should include questions on how to use particular tools—e.g., how to search for synonyms in the EUR-Lex database.

My class meets once a week, with exercises required for all but the first class. I also encourage students to ask for help (by e-mail, phone, or in person) during the week if they have trouble with the questions. Some students require much more help than others, but nearly all of them can master IFLR skills with enough repetition. In reading years of student evaluations, one strong theme that emerges is the effectiveness of repetition in teaching research skills. It is exciting to see a student gain the confidence later in the course to say promptly, “I’d start with Reynolds & Flores,” or “I’d look in HUDOC.”

**READINGS**

It is possible to cobble together suitable reading materials from a combination of online research guides, journal articles, and text chapters. Sample
syllabi, along with many other useful exercises, PowerPoint presentations, and other class materials, are freely available at the “Syllabi and Course Materials” Web page of the FCIL Special Interest Section of the American Association of Law Libraries (AALL). In late 2007, Marci Hoffman and I published *International and Foreign Legal Research: A Coursebook*, designed for IFLR classes. Another publication librarians may want to consider is *Legal Research Methods in the U.S. and Europe*, by J. Paul Lomio and Henrik Spang-Hanssen.

**ASSESSMENT**

To assess students’ ability to perform IFLR *efficiently*, a take-home exam (due perhaps eight to twenty-four hours after receipt) works well. A timed take-home exam separates those who have learned how to select the right tool for each question and to use that tool efficiently from students who may have managed to complete the weekly exercises by spending a disproportionate amount of time on them. Students in my course generally approach the final exam with some trepidation, but after completing it, they tell me, “I didn’t realize how much I’ve learned!” Creating the exam need not be difficult; the best approach is to take typical questions from earlier assignments and change one aspect (e.g., the jurisdiction, the topic of an IGO resolution, or the subject of an E.U. directive).

Some IFLR instructors prefer to require a research guide or pathfinder as a final product, usually centered on a foreign jurisdiction or an international law issue, such as international criminal law, NAFTA, or international taxation. Pathfinders have the advantage of forcing students to dig deeper into relevant sources for one country or topic. After a few years of requiring pathfinders, however, the lack of connection between pathfinders and legal practice convinced me to bulk up on exercises and add an exam instead. My own experience in law practice, coupled with my experience fielding research requests from attorneys and law librarians, convinced me that creating a pathfinder is much more suited to future law librarians than to future lawyers. As a practical matter, with country and topic guides increasingly available online at Globalex, LLRX, and various law library Web sites, it is also getting harder to know whether students really conducted their own investigation into research sources, or relied on existing guides instead.

**LAW LIBRARIANS MUST BE THE TEACHERS**

Generally, experts agree that librarians should teach legal research. The landscape of available research sources changes quickly. Web sites come and go, databases are abandoned, print tools become online only; librarians
are best suited to monitor these changes. Librarians have been trained to understand the principles that underlie research tools—indexing; database concordances, fields, and document breaks; Boolean connectors; and bibliographic control. Librarians track and evaluate new and evolving research tools in their day-to-day work. Moreover, only librarians, as research specialists, can teach students the flexibility they will need to use a universe of varying Web sites, commercial databases, and hard-copy sources. Students should emerge from the FCIL class with strategies for learning what a database or other resource contains, how current and complete it is, and how to use it effectively.63

Law professors whose primary focus is substantive tend to be the “one-trick ponies” of international and foreign research—they may know how to find U.N. resolutions or European Court of Justice cases using their favorite tool but are unlikely to know of or seek out alternatives. Professors should teach the substance of foreign or international law—for example, how E.U. legislative powers are divided—but they lack the skills and the class time to cover finding information and analyzing its provenance and quality.

For different but obvious reasons, Westlaw and LexisNexis vendors also fail to expose students to the whole range of tools they need. I experimented early on with having guest lectures from Westlaw and LexisNexis trainers but found that they lacked enough understanding of international and foreign research to present their resources usefully. They also suffer from a tendency to make research look easier than it is, to the point that the techniques and examples they use in class will not necessarily work on real problems. Librarians can expose students to the valuable resources on Westlaw and LexisNexis while reminding them of the cost and limitations of these services.

CONCLUSION

The globalization of law practice imposes obligations on law schools. To prepare students for practice, schools must give them the right tools. A well-designed IFLR class will enhance American law students’ ability to function and compete in the global marketplace. Do students themselves see the value of such courses? Based on several years of enthusiastic course evaluations, I believe they do. And I treasure the comment of one former student, who filled out a class evaluation form which asked, “Would you recommend this course to a friend?” In response, he printed neatly, “I would recommend this course to GOD!” 64

NOTES


6. Christian Tietje, The WTO Sanctions Regime and International Constitutional Political Economy, 2008 U. Ill. L. Rev. 383, 386 (2008); Frank J. Garcia, Building a Just Trade Order for a New Millennium, 33 Geo. Wash. Intl. L. Rev. 1015, 1049 (2001) (“Trade law and trade institutions are impacting more and more areas of traditional domestic concern, such as environmental protection, labor, and employment standards, and cultural identity.”) (footnotes omitted).

7. John Flynn Rooney, E-Discovery, Globalization Top List of Tests, Chi. Daily L. Bull., 1 (17 Dec. 2007) (stating that since 2000, “the 250 largest U.S.-based law firms have increased their attorney rosters in Europe by sixty percent and in Latin America by forty-two percent.”)


9. E-mail from Karen L. Tarrant, partner, Tarrant, Drummer & Liska, to Mary Rumsey (4 Sept. 2008, 4:08 p.m. CST) (copy on file with author).

10. E-mail from Erik W. Ibele, attorney, Neider & Boucher, to Mary Rumsey (19 Sept. 2008, 1:36 p.m. CST) (copy on file with author).


14. Anita Bernstein, On Nourishing the Curriculum with a Transnational Law Lagniappe, 56 J. Leg. Educ. 578, 578–579 (2006) (“Admissions officers in law schools have told me that ‘international law’ is consistently one of the top two curricular interests that prospective students check off on survey forms …”).


18. Scott L. Cummings, The Internationalization of Public Interest Law, 57 Duke L.J. 891, 911 (2008) (noting the emergence of asylum-oriented law school clinical programs); Oona A. Hathaway, The Continuing Influence of the New Haven School, 32 Yale J. Intl. L. 553, 558 (2007) (stating that “[l]aw school clinics focusing on issues of international law have proliferated during the last several decades.”)


The Skills They Need

21. For example, the Conservation Clinic at the University of Florida Levin College of Law advises international and nongovernmental organizations on international and foreign conservation projects. Jon Mills & Timothy McLendon, Law Schools as Agents of Change and Justice Reform in the Americas, 20 Fla. J. Int'l L. 5, 18 (2008).


26. Lee Peoples, Strategies and Sources for International Legal Research, 60 Consumer Fin. L.Q. Rep. 412, 413 (2006) (“Some research tools familiar to the U.S. law researcher are missing in FCIL research. There is no huge database of every treaty or decision of international tribunals that may be quickly searched on LexisNexis or Westlaw. There are some digests in FCIL research but no West key number system organizing the entire corpus of FCIL into a massive subject outline. Shepard’s is another research tool that is not always found in FCIL research. Jurisdictions that share the common law tradition of stare decisis will usually have some tool for verifying the status of case law and other sources of legal authority. In the United Kingdom, the equivalent of Shepard’s is called the Noter Up. Most civil law jurisdictions do not formally recognize the concept of stare decisis and have no Shepard’s citator equivalent. There is also no Shepard’s citator equivalent for verifying and updating the decisions of international courts and tribunals.”)


29. Peoples, supra n. 26 (footnote omitted).

30. Customary international law is “international law that derives from the practice of states and is accepted by them as legally binding.” Black’s Law Dictionary 835 (Bryan A. Garner ed., 8th ed., West 2004).

31. Most court decisions in civil law countries do not constitute primary law, because precedent does not have controlling effect in these systems (with certain exceptions). See John Henry Merryman & Rogelio Pérez-Perdomo, The Civil Law Tradition: An Introduction to the Legal Systems of Western Europe and Latin America 47 (3d ed. Stanford University Press 2007) (noting the lack of a formal rule of stare decisis in civil law systems, while recognizing the influence of previous decisions on courts); Ken Gormley, Judicial Review in the Americas: Comments on the United States and Mexico, 45 Duq. L. Rev. 393, 403 (2007) (stating that in “civil law countries, judicial precedent is not the driving force of the legal system.”)

32. Liana Fiol Matta, Common Law and Civil Law in the Legal Method of Puerto Rico: The Transmission of Legal Discourse, 64 Rev. Juridica U. Inter. P.R. 501, 523 n.69 (1995) (reporting that a survey of Puerto Rican law professors revealed “substantial agreement [eighty-seven percent] on the proposition that civilian research sources are not as easy to use as Anglo-American sources.”)

33. Survey conducted on the electronic discussion lists “law-lib” (open to any law librarians) and “fcil-sis” (the Foreign, Comparative & International Law Special Interest Section of the American Association of Law Libraries) during April 2008 (results on file with author).

34. Some of my statements about FCIL research instruction are based on yearly attendance at the FCIL Special Interest Section’s Teaching Foreign & International Legal Research group meetings during the AALL’s annual meetings. I have attended each yearly session for the past several years and am grateful for the information provided by other attendees.

35. Several of the respondents to the survey cited in supra n. 33 stated that their schools were just starting to offer a stand-alone class.

36. Stacey L. Gordon, Specialized Legal Research: My Experience in Developing Courses, Leg. Info. Alert 1, 4 (April 2007) (noting increase in specialized research courses and stating that IFLR courses are the most common).

38. If the instructor is able and willing to provide extra help for such students, even the lack of first-year legal research training should be no barrier. As with most prerequisites, an instructor can choose to waive that requirement, and LL.M. students bring useful experience and education to the class.

39. See e.g. syllabi for FCIL research courses collected at the Web site of the Foreign, Comparative & International Law Special Interest Section of the AALL, available at http://www.aallnet.org/sis/fcilsis/syllabinewsite.html.


41. For example, I always offer to teach international environmental research, and every year, to my chagrin, students express little interest. I then remove it from the syllabus. At a school with a stronger focus on environmental law, student preferences would probably differ.


48. An aptly titled feature of the journal *Perspectives: Teaching Legal Research and Writing*.

49. During the first few weeks of my class, I hand out a survey to find out what international or foreign legal experience students have, what foreign languages they read, and what their areas of topical interest are.


54. *Inside U.S. Trade* is available on LexisNexis, via the path Area of Law - By Topic/International Trade/Search News/General News.


63. Readers will notice that these skills translate well into U.S. research; many of my students have observed that their overall research skills improved greatly from the FCIL research course.

64. Student evaluations on file with author.