



THURSDAY

FRIDAY

MONDAY

TUESDAY

TODAY

Questions and Comments

Previous

Next

Bookmark Reprints

NEWS

RULINGS

VERDICTS

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Researching Asian law: overcoming the common challenges

By Neel Agrawal

As legal practice between the U.S. and Asian countries becomes increasingly common, attorneys and legal professionals require the skills to conduct research in global law. Cross-border litigation involves foreign laws, which are the domestic laws of other countries, as well as international laws governing the relations between countries. For example, attorneys may need the tax law of Indonesia, a treaty governing service of process abroad in Sri Lanka, or case decisions of the Philippines.

These practical research tips are to assist in the following areas: translation of foreign language materials; starting points in legal research; accessing electronic databases; understanding legal procedures; and legal citation.

Translations

While the laws of India, the Philippines, Singapore and Malaysia are in English, the laws of various other Asian countries are in their native languages. You still may be able to locate the text of the law and sometimes access English versions. For instance, English versions of Asian laws are often compiled in print sets such as "China Laws for Foreign Business," the Japanese "EHS Law Bulletin Series" and "Economic Laws on Foreign Investment in Korea." Those with a basic or conversational knowledge of the native language may find foreign language legal dictionaries helpful to parse more complex phrases.

Starting points

Because the research approach to each country's laws is unique, it helps to consult Juriglobe to determine whether a country's legal system is classified as civil law, common law, Muslim law, customary law, or mixed. Secondary sources such as research guides, treatises, and loose-leaf services summarize Asian law and procedure, as well as cite to the primary law, such as statutes, cases, regulations, court decisions and treaties. These titles focus on either a particular jurisdiction - "Commercial and Economic Law in Macau," or a region - "Legal Aspects of Doing Business in Asia."

The Foreign Law Guide database introduces researchers to the legal systems of Asian countries and indexes legal citations, even as particular as the Cambodian marriage or Pakistani exporting laws. GlobaLex and the numerous LibGuides published by law schools highlight relevant print and electronic materials and link to databases. Also, when researching Asian law, consider periodicals like the Asian Journal of International Law, the Hong Kong Law Journal and the Law Yearbook of China.

For international arbitration, consult Gary Born's "International Commercial Arbitration," "Redfern and Hunter on International Arbitration," or the online research guide, "ASIL Guide to Electronic Resources for International Law:

SPECIAL REPORT

Top Neutrals



Wednesday, October 23, 2013

Litigation

Graduates don't get class certification against Thomas Jefferson Law School

A San Diego County judge has denied a motion to certify a class action against the school, which former students accuse of having puffed up the number of alumni who landed jobs.

Intellectual Property

Quinn Emanuel says Apple licensing deal disclosure was inadvertent

John B. Quinn acknowledged Tuesday his law firm may have inadvertently violated a protective order in an ongoing patent infringement suit between Apple and Samsung.

International

China, a market too big to ignore

China could be the legal industry's salve for the economic malaise it has suffered for the better part of a decade. By **Peter Zeughauser**

Litigation

Howrey estate submits settlement agreements with three firms

Allan B. Diamond, trustee for the estate, seeks to settle unfinished business claims with Covington & Burling LLP, Kirkland & Ellis LLP and Shearman & Sterling LLP.

Government

Unpaid criminal lawyers will keep working in San Francisco courts

The agreement followed a testy duel over whether the volunteers need more supervision.

Law Practice

Report: U.S. legal jobs slows in September

Jobs in the U.S. legal industry rose by 1,100 in September, a decline from July and August, while

International Commercial Arbitration." Essential sources on international trade treaties and cases are the "WTO Analytical Index," "Handbook of WTO/GATT Dispute Settlement" and "Law & Practice of the World Trade Organization." For foreign and international investment, refer to "Investment Treaties," "Investment Laws of the World," and "U.S. International Investment Agreements."

Electronic databases

Electronic databases also facilitate Asian legal research. WorldLII, a freely available database, contains court decisions, acts and statutes, treaties and law journals from civil and common law jurisdictions. Some countries make their laws publically available online in English, for example, through Korea's Supreme Court and Ministry of Government Legislation websites.

Useful international arbitration databases include the CISG Database (Convention on the International Sales of Goods) and ICSID Cases (International Centre for the Settlement of Investment Disputes). Moreover, RIA Worldwide Tax and Commercial Law expedites access to primary law such as Fiji's Companies Act and Brunei's Income Tax Act. Finally, the U.S. International Trade Commission publishes its decisions on its Electronic Document Information System (EDIS).

Legal procedure

Litigation guides explain the nuances of legal procedure in Asian countries. Three essential sources are "Transnational Litigation: A Practitioner's Guide," "International Civil Procedure" and "International Encyclopaedia of Laws: Civil Procedure." These practitioner-oriented compendiums provide country-by-country commentary on all aspects of civil procedure, covering jurisdiction, proceedings, choice of law, service of process, discovery rules, relief and appeals.

As legal practice becomes increasingly globalized, practitioners require sources to assist in incorporating foreign and international law into state and federal pleadings. "International Law in the U.S. Legal System" discusses the domestic status of treaties, customary international law and decisions and orders of international institutions. To determine how to enforce Asian judgments in the U.S. or foreign judgments in Asia, consult "Enforcement of Foreign Judgments," "International Execution Against Judgments Debtors" and "Enforcement of Money Judgments."

Citation

Citation guides enable researchers to locate and properly cite to Asian materials. The "World Dictionary of Legal Abbreviations" gives the full name of abbreviated citations from China, India, Japan and Korea, such as the All India Reporter (A.I.R.). Abbreviated citations of case reports in "Noble's International Guide to the Law Reports" are as specific as Sri Lanka's Leembruggen & Asirwatham's Reports (Leem. & Asir.) and the Federated Malay States' Land & Mining Cases (Innes). Also refer to "Prince's Bieber Dictionary of Legal Abbreviations," a classic print source, and Cardiff Index to Legal Abbreviations, a free online source.

Follow citation conventions when utilizing Asian legal authority in litigation pleadings and academic scholarship, particularly "The Blue Book: A Uniform System of Citation." Another valuable source, "The Guide to Foreign and International Legal Citations," provides citation formats for the constitution, legislation and jurisprudence of certain Asian countries, as well as materials from the UN and major international tribunals.

Neel Agrawal is the librarian for Global Law at the LA Law Library. He completed his undergraduate and legal education at Michigan State University and received a degree in law librarianship from the University of Washington. For questions or assistance, the author can be contacted at nagrawal@lalawlibrary.org.

[Previous](#) [Next](#)

California legal jobs declined.

Government

U.S. prosecutors increasingly picking up cases originating in China

China's reputation as an inconsistent partner in anti-corruption efforts is on the mend after a push to root out economic wrongdoing by foreign and domestic parties. Some cases have garnered the attention of stateside prosecutors.

Education

USC law school will offer rare online master's degree

Foreign lawyers who want to learn U.S. law will soon be able to earn a master in laws degree from USC Gould School of Law without leaving home. The program joins a growing number of online legal education offerings.

Law Practice

Most firms still watching, waiting on Myanmar

Duane Morris LLP was the first U.S.-based firm to open an office in Myanmar last month, but legal observers don't expect many other American law firms to follow suit anytime soon.

Litigation

Firms chosen as plaintiffs' lead counsel in privacy class action

A federal judge selected Kerr & Wagstaffe LLP and Phillips, Erlewine & Given LLP to lead a group of plaintiffs in putative class actions alleging Web and mobile application companies misappropriated their address books.

International

The new face of antitrust in China

This past year has seen a marked increase in government antitrust investigations in China. By **Becky Koblitz and Michael W. Scarborough**

Washington stirs as India undermines patents

India's approach to pharmaceutical patents is garnering increased attention in Washington, with recent high-level pressure on the Indian government to do more to protect intellectual property. By **David Weller and Himanshu Singh**

Antitrust & Trade Reg.

Apple was the exception; Samsung, the rule

Samsung was merely on the losing side of a legal policy debate that transcended this single case against Apple. By **Rodney R. Sweetland, III**

Entertainment & Sports

Hollywood and Bollywood at the