

TYRANNY OF THE AVAILABLE: UNDER-REPRESENTED TOPICS, APPROACHES, AND VIEWPOINTS

Marci Hoffman* & Katherine Topulos**

INTRODUCTION

In her 2000 article, *Gaps in International Legal Literature*, Lyonette Louis-Jacques challenged international law scholars to write about “the unpopular, the weird, the old, the outside, the unexpected, the obscurities buried in ancient tomes, and the unsafe topics that do not make headline news. . . . I would like to read more scholarly writings on international legal issues from diverse perspectives.”¹ She also identified some of the gaps, in both format and substance, in international and comparative law sources and scholarship.²

In the years since her article appeared, changes such as the growth of digitization projects like LLMC Digital and HeinOnline have increased access to international legal information in electronic format. In addition, the development of new outlets for scholarship (SSRN, blogs, open-access repositories of scholarly writings, etc.) has also done the same for commentary.³ However, many gaps Ms. Louis-Jacques identified still exist; for example, many basic reference tools, such as Parry and Grant’s *Encyclopaedic Dictionary of International Law*, remain only in print format, and comparative legal statistics are still hard to find. While there seems to be little debate that the Internet is a valuable source of primary materials and other digitized texts, there is

* Associate Director & International and Foreign Law Librarian, University of California, Berkeley Law Library.

** Foreign & International Law Librarian and Senior Lecturing Fellow, Duke Law Library. We are immensely grateful to Mirya Holman, Empirical Legal Research Graduate Assistant at the Duke Law Library, for her invaluable assistance with the empirical research presented in this article.

1. Lyonette Louis-Jacques, *Gaps in International Legal Literature*, 1 CHI. J. INT’L L. 101, 108 (2000).

2. *Id.* These gaps include the lack of electronic access to many key sources, the difficulty in finding comparative legal statistics, and the dearth of scholarship by authors outside the mainstream.

3. For example, HeinOnline contains a large collection of international documents, such as international law yearbooks (including U.S. law digests), an extensive treaties library, the World Trials Library, etc. Selected classic treatises on international law (such as works by Grotius, Vattel, and Pufendorf) are available in HeinOnline and the Making of Modern Law: Legal Treatises 1800–1926.

controversy about the value of new outlets such as blogs and wikis.⁴

Richard Danner has written about the practice of legal research in the U.S. and analyzed the resources researchers are most likely to use.⁵ He is concerned that the explosion of legal materials available electronically will lead to over-dependence on “convenient and readily available tools.”⁶ Although this penchant is not new, it has been exacerbated by the easy access to materials that new technology permits.⁷

This article examines the effect on international law scholarship of current events, recent trends in legal scholarship generally, and the unprecedented amounts of materials made easily available by advances in technology and new media outlets. We are not intending to update Ms. Louis-Jacques’s article point-by-point, but rather we are following her example by touching on some of the same issues and themes, in order to determine if any of the gaps she identified have been filled (and if new gaps have developed).

Part I of this article looks at some of the current trends in international law scholarship: to what degree changes in the world since

4. See, e.g., Jose E. Alvarez, *The Democratization of the Invisible College*, THE AM. SOC’Y OF INT’L L., Nov. 8, 2007, available at <http://www.asil.org/ilpost/president/pres071108.html> (last visited Mar. 18, 2008).

The jury is still out on whether access to the web, in addition to all the other changes in the size and diversity of our profession, is truly “democratizing” the invisible college [of international lawyers]—or turning it into a raucous, immature, and unformed junior high school for a (still) privileged elite living in the wealthy environs of our planet.

For a discussion of how libraries are dealing with new, technologically-driven formats, see Jan Ryan Novak & Leslie A. Pardo, *The Evolving Nature of Faculty Publications*, Cleveland-Marshall Research Paper No. 07-134, 26 LEGAL REFERENCE SERVICES Q. 1 & 2 (2007), available at http://papers.ssrn.com/so13/papers.cfm?abstract_id=961879 (last visited Mar. 18, 2008).

5. Richard A. Danner, *Contemporary and Future Directions in American Legal Research: Responding to the Threat of the Available*, 31 INT’L J. LEGAL INFO. 179 (2003).

6. *Id.* at 191.

7. Dean Danner quotes Karl Llewellyn who defined the “threat of the available” as: [T]he almost inevitable tendency in any thinking, or in any study, first to turn to the most available material and to study that—to study it exclusively—at the outset; second, having once begun the study of the available, to lose all perspective and come shortly to mistake the merely available, the easily seen, for all there is to see.

KARL N. LLEWELLYN, *Legal Tradition and Social Science Method—A Realist’s Critique*, in ESSAYS ON RESEARCH IN THE SOCIAL SCIENCES 89, 95–96 (1931), reprinted in Karl N. Llewellyn, *Jurisprudence: Realism in Theory and Practice* 77, 82 (1962).

For a discussion of how widespread availability of materials in electronic format has changed the way lawyers and law students do research, see, e.g., Ellie Margolis, *Surfin’ Safari—Why Competent Lawyers Should Research on the Web*, 10 YALE J.L. & TECH. 82 (2007).

2000 (most notably the events of September 11, 2001) have led to an increased interest in international law, and whether international law research has followed the prevalent intellectual trends in legal scholarship for interdisciplinary and empirical research. Part II of this article discusses whether the increased accessibility to international materials made possible by the Internet and through other electronic resources has led to a concomitant increase in the expression of different perspectives and viewpoints in international law scholarship.

In order to determine the degree to which international law scholarship has been affected by these factors, we look at law journal literature since 1992, and compared the years since Ms. Louis-Jacques's article appeared (2000–2007) to the period from 1992–1999.⁸ Our research methodology involved three basic steps. First, we identified proxy terms that occur frequently in the subset of each section of the literature that we are examining. Next, we searched for these terms in the Journals and Law Reviews (JLR) database in Westlaw, being careful to note the number of articles that contained our proxy terms in each time period of interest.⁹ Finally, we used Westlaw's "locate" function to identify how many articles that contained our proxy terms also contained the term "international."¹⁰

I. CURRENT TRENDS IN INTERNATIONAL LAW SCHOLARSHIP

A. *September 11, 2001*

The oft-repeated claim that "9/11 changed everything" is obviously exaggerated.¹¹ However, it does mark a watershed in international law

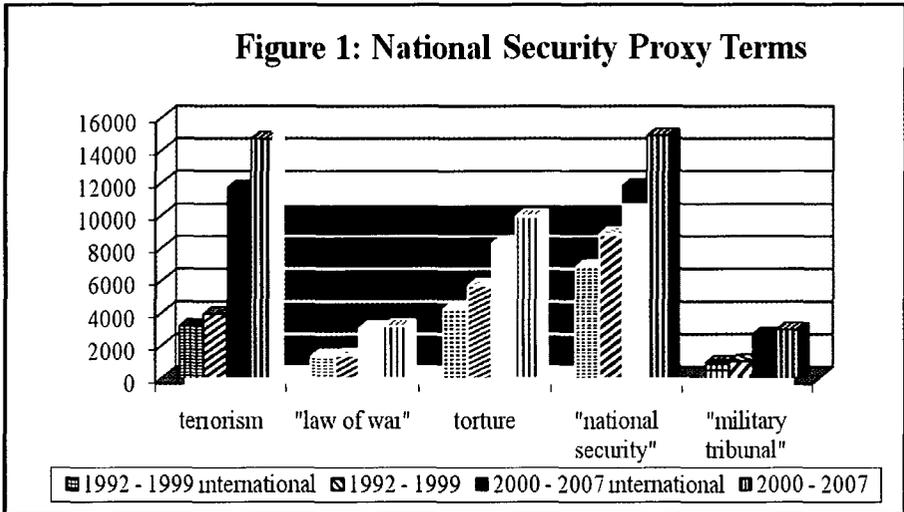
8. We chose these time-periods so that we could compare two equal time spans.

9. We have noted that there is a natural growth that occurs in the number of journal articles available for searching in Westlaw. To accommodate for this, we used a methodology out of Ellickson's 2000 article on trends in legal scholarship: the rare word index. To do this, we searched for a collection of rare words, or words that do not appear at any high level of frequency in legal scholarship (including baffling, castigated, doctrinaire, honed, intermixed, lukewarm, masquerade, quiescence, rummage, and seasonable). These are words that, essentially, can mark the natural growth of the number of journals and articles covered by the database. However, we found that there was less than a ten percent growth, based on this calculation. As this growth was minor, we use the pure numbers in our analysis in this article.

10. We tried several alternatives to the word international, including comparative, international relations, and foreign relations. All of these terms occurred at similar (albeit lower) frequencies as "international." We wanted to ensure that we were including as many international law articles as possible, so we used "international" as our primary proxy term for international law.

11. *New York Times* columnist Frank Rich has described September 11, 2001 as "the day that was supposed to change everything and did not." Frank Rich, *Whatever Happened*

scholarship. For example, since 9/11 there has been a measurable increase in literature on terrorism. Other developments include a growth of interest in subjects such as the law of war and military tribunals; the number of articles about these subjects has almost doubled in both international law literature and general legal scholarship.¹²



B. Empirical and cross-disciplinary research

The idea that legal scholarship should include both empirical and cross-disciplinary (e.g., social science) research methodologies is not new. Oliver Wendell Holmes famously wrote in 1897 that “[f]or the rational study of the law the black-letter man may be the man of the present, but the man of the future is the man of statistics and the master of economics.”¹³ The cross-disciplinary work came sooner than the empirical.¹⁴ Our research suggests that both are now firmly

to the America of 9/12?, N.Y. TIMES, Sept. 10, 2006, available at <http://select.nytimes.com/2006/09/10/opinion/10rich.html> (last visited Apr. 14, 2008).

12. See Fig. 1: National Security Proxy Terms. See App. A, Tbl. 1, for additional data associated with these figures.

13. Oliver Wendell Holmes, Jr., *The Path of the Law*, 10 HARV. L. REV. 457, 469 (1897).

14. See, e.g., Richard A. Posner, *The Decline of Law as an Autonomous Discipline: 1962–1987*, 100 HARV. L. REV. 761 (1987); David A. Hollander, *Interdisciplinary Legal Scholarship: What Can We Learn From Princeton’s Long-Standing Tradition*, 99 LAW LIBR. J. 771 (2007) (provides a brief overview of the “long and well-documented” interdisciplinary nature of legal scholarship, along with a look at the work of scholars for whom law is the other discipline); James G. Milles, *Leaky Boundaries and the Decline of the Autonomous Law School Library*, 96 LAW LIBR. J. 387 (2004) (discusses the impact of

established.¹⁵ To determine to what degree international law scholarship has followed these trends, we have used the same methodology to determine if international law scholars engage in interdisciplinary and empirical research to the same degree as legal scholars generally.¹⁶

C. Interdisciplinary Research

In 1979 Louis Henkin wrote “the student of law and the student of politics . . . purport to be looking at the same world from the vantage point of important disciplines. It seems unfortunate, indeed destructive, that they should not, at the least, hear each other.”¹⁷ During the 1990’s,

interdisciplinary scholarship on law libraries). See also Christopher Tomlins, *Framing the Field of Law’s Disciplinary Encounters: A Historical Narrative*, 34 LAW & SOC’Y REV. 911 (2000) (discusses the “historical interrelationship of law and social science”). The law and economics tradition at the University of Chicago Law School began in the post-WWII era. Which is not to say that the usefulness of law professors doing interdisciplinary legal scholarship (and their ability to do it well) has been uncontroversial. See, e.g., Martha L. Fineman, *Unmythological Procedure*, 63 S. CAL. L. REV. 141, 152 (1989).

I do not mean to suggest that there is no place in law for interdisciplinary inquiry. On the contrary, I believe careful (and critical) consideration of the information supplied by other disciplines is desperately needed. What I do caution against are superficial renditions of interdisciplinary insights that pick an item or two out of an extended and complex disciplinary discourse and debate and position it as capturing the knowledge in the field.

15. The developments of legal scholarship over the last twenty-five years or so have amply borne out Justice Holmes’s prophecy with respect to economics and the law. But they have not so clearly borne out his prophecy with respect to statistics. Empirical methods are still rare in legal scholarship: very few law professors buttress their arguments by appeal to tests of statistical significance or even with descriptive statistics. Similarly, courses in quantitative methods in the law are rare. The systematic organization of data and its presentation in revealing ways may be a routine part of many scholarly disciplines, but it is not yet a routine part of legal argumentation. Still, there are signs that empirical and experimental methods are becoming more common in legal scholarship. Empiricism is also a unifying theme of several of the increasingly influential interdisciplinary approaches to the study of law.

Richard H. McAdams & Thomas S. Ulen, *Symposium: Empirical And Experimental Methods of Law: Introduction*, 2002 U. ILL. L. REV. 791, 791 (2002).

See UCLA Law, Research Centers & Programs, *ELS Bibliography*, available at <http://www.law.ucla.edu/home/apps/els/> (last visited Mar. 17, 2008) (includes a bibliographic database of empirical legal studies and scholarship that was launched in January 2008 and is a collaborative effort of Cornell Law School and UCLA Law covering articles published after July 2005). This resource is another indication of the growing importance of empirical legal scholarship.

16. See *infra*, Fig. 2: Interdisciplinary Research Proxy Terms. See *infra*, Fig. 3: Empirical Research Proxy Terms 2.

17. LOUIS HENKIN, *HOW NATIONS BEHAVE: LAW AND FOREIGN POLICY* 4 (2d ed., Columbia Univ. Press 1979) (1986).

scholars such as Anne-Marie Slaughter urged an alliance between international law and international relations.¹⁸ By 2005, it could be said that:

Among international legal academics, at least those trained in American law schools, it is increasingly a truism that “we’re all interdisciplinary scholars now.” That is, most international lawyers would accept the claim that international law is not an autonomous discipline; rather, international law is increasingly understood as a discipline that is itself interdisciplinary.¹⁹

Our data shows a growing interest in interdisciplinary research by international law scholars, as measured by the increased use of terms prevalent in other disciplines (such as economics, political science, and most especially international relations) in the international law literature.²⁰ However, these measures indicate international law scholarship still lags behind legal scholarship generally in its use of interdisciplinary methodologies.

18. See Robert J. Beck, *International Law and International Relations: The Prospects for Interdisciplinary Collaboration*, 1 J. INT’L LEGAL STUD. 119 (1995). For an overview of “interdisciplinary introspection” in international law scholarship since the 1990’s, see David J. Bederman, *Appraising a Century of Scholarship in the American Journal of International Law: Centennial Essay In Honor of the 100th Anniversary of the AJIL and the ASIL*, 100 AM. J. INT’L L. 20, 48 (2006). This article provides an in-depth intellectual history of U.S. international law scholarship as published in the *American Journal of International Law* since 1907.

19. Jeffery L. Dunoff, *Why Constitutionalism Now? Text, Context and the Historical Contingency of Ideas*, 1 J. INT’L L. & INT’L REL. 191, 208 (2005). He continues on to say that:

[p]erhaps following larger trends in legal scholarship international legal scholarship in recent years has taken an interdisciplinary turn. In particular . . . international law “discovered” international relations theory [IR]. International legal scholars use IR theory in various ways . . . IR theory helps international lawyers move from their occasionally excessive focus upon text and usefully contextualize legal phenomena.

Id. at 209. It is significant that this article appears in the first issue of a new journal, the *Journal of International Law & International Relations*, which “was established to promote critical, informed, and interdisciplinary debate on the intersection of international law and international relations . . .” Kevin-Paul Deveau & Usman Sheikh, *Editor’s Note*, 1 J. INT’L L. & INT’L REL. 1 (2005). Some recent examples of interdisciplinary international law research include Jack L. Goldsmith & Eric A. Posner, *A Theory of Customary International Law*, 66 U. CHI. L. REV. 1113, 1114 (1999) (“present[ing] a theory of CIL [customary international law] that . . . uses simple game theoretical concepts to explain how CIL arises, why nations ‘comply’ with CIL as commonly understood, and how CIL changes.”), and Henry J. Steiner, *The University’s Critical Role in the Human Rights Movement*, 15 HARV. HUM. RTS. J. 317 (2002) (illustrating interdisciplinary human rights research projects).

20. We included common terms from research in political science and international relations, including qualitative, quantitative, and empiric.

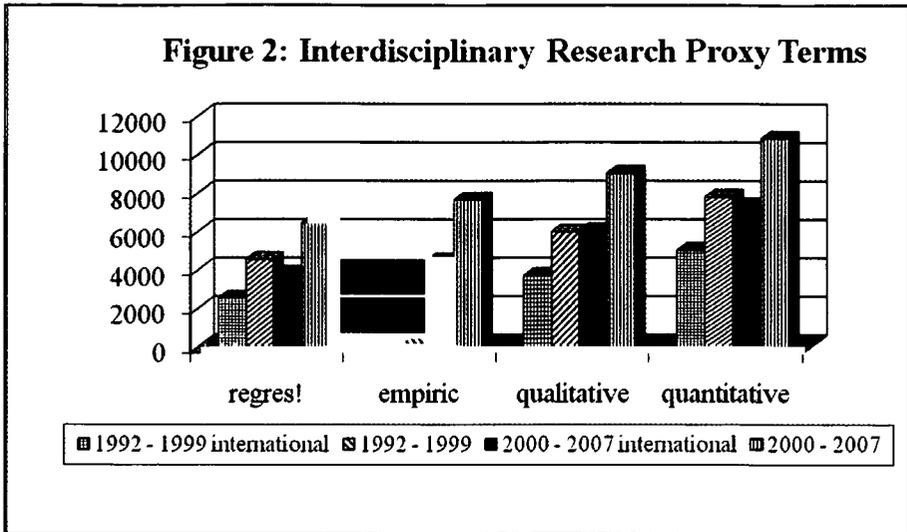


Figure 2 shows that there has been a general increase in the international law literature using interdisciplinary terms, especially those terms that relate to interdisciplinary methodologies.

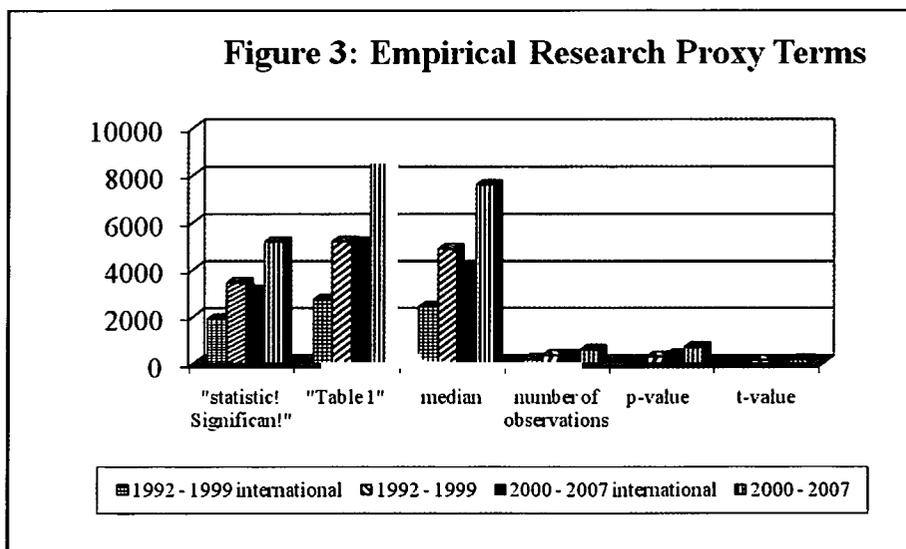
D. Empirical Research

The growth in empirical approaches to legal research has been described as “one of the most dramatic trends in recent legal scholarship.”²¹ Robert Ellickson’s well-known 2000 study noted a marked increase in the production of empirical legal scholarship among law professors from 1982 to 1996,²² programs focusing on empirical

21. Kathleen M. Sullivan, *Forward Interdisciplinary*, 100 MICH. L. REV. 1217, 1222 (2002). In this history of empirical legal scholarship, which begins with the legal empiricism movement of the early twentieth century, Michael Heise argues that a “new empiricism” is developing for reasons both theoretical (e.g., the growing interdisciplinary nature of legal scholarship and the influence of fields such as economics and political science with their emphasis on quantitative analysis) and practical (sophisticated new computer software and the greater availability of data have made this kind of research much easier). See generally Michael Heise, *The Past, Present, and Future of Empirical Legal Scholarship: Judicial Decision Making and the New Empiricism*, 2002 U. ILL. L. REV. 819 (2000). See also Tracey E. George, *An Empirical Study of Empirical Legal Scholarship: The Top Law Schools*, 81 IND. L.J. 141 (2006). Scholars have made arguments for more empirical legal research for at least the last ten years. See, e.g., Craig Allen Nard, *Empirical Legal Scholarship: Reestablishing a Dialogue Between the Academy and Profession*, 30 WAKE FOREST L. REV. 347, 349 (1995); Michael Heise, *The Importance of Being Empirical*, 26 PEPP. L. REV. 807, 834 (1999).

22. Interestingly, his study did not show an increased citation of others’ empirical work during this period. Robert C. Ellickson, *Trends in Legal Scholarship: A Statistical Study*, 29 J. LEGAL STUD. 517, 528–30 (2000).

work have been established at several law schools, and a new law journal devoted to empirical legal research, *Journal of Empirical Legal Studies*, began in 2004.²³ However, an examination of the frequency of empirical research proxy terms seems to indicate that empirical legal scholarship still does not regularly include advanced empirics. For example, the term "Table 1," which could be associated with a wide variety of levels of empirical analysis, appears frequently, and grew in frequency from the first time period to the second. The terms "t-value" and "number of observations," (both of which could be associated with more complicated empirical analyses) do not appear frequently, and are not increasing in frequency at a rapid rate. The low frequency of these terms could be taken to mean that empirical legal scholarship, while growing, has not reached a level where complicated analyses are regularly occurring.



There are indications of an increase in empirical methodologies in international law scholarship as well. Consider, for example, Oona

23. Theodore Eisenberg, *Why Do Empirical Legal Scholarship?*, 41 *SAN DIEGO L. REV.* 1741, 1742 (2004). For example, in the fall of 2007, Duke University Law Library hired a graduate assistant with a strong background in statistics (she is working on her Ph.D. in political science) to help faculty with empirical research. This article was one of her first projects, and could not have been written without her considerable contributions. In January 2008, the Tarlton Law Library at the University of Texas at Austin advertised for an interdisciplinary and empirical research specialist.

Hathaway's 2002 article, *Do Human Rights Treaties Make a Difference?*, which asks:

[a]re human rights treaties complied with? Are they effective in changing states' behavior for the better? These are critical questions not only for our assessment of human rights treaties, but also for our understanding of the effects of international law more generally. . . . Examining the effects of human rights treaties thus offers a rare opportunity to put dominant views of international law to the test. This Article undertakes that test with a large-scale quantitative analysis of the relationship between human rights treaties and countries' human rights practices.²⁴

Cited almost 200 times, this article has been described as "pathbreaking."²⁵ But is it really part of a trend? A recent (November, 2007) posting to the blog, *Opinio Juris*, describes empiricism as the "poor step-child in the international legal academy," and laments the scarcity of empirical research on international law.²⁶

24. Oona Hathaway, *Do Human Rights Treaties Make a Difference?*, 111 YALE L.J. 1935, 1938–39 (2002).

25. Sanford Levinson, "Precommitment" and "Postcommitment": *The Ban on Torture in the Wake of September 11*, 81 TEX. L. REV. 2013, 2018 (2003). But Hathaway's methodology is not without its critics. See Ryan Goodman & Derek Jinks, *Measuring the Effects of Human Rights Treaties*, 14 EUR. J. INT'L L. 171 (2003). Comparative law scholars see the value of empirical scholarship as well. "By applying empirical research methods to comparative law questions, legal scholars can meaningfully contribute to improving the design and operation of legal institutions both here and abroad, enhancing governance and judicial performance around the world, and facilitating transnational legal practice through a deeper understanding of how foreign jurisdictions work." David Louis Finnegan, *Applied Comparative Law and Judicial Reform*, 8 T.M. COOLEY J. PRAC. & CLINICAL L. 97, 97 (2006). Finnegan sees what he calls "applied comparative law" as a way to meld theory and practice:

Scholars have long recognized one potentially relevant application of this body of research: reforming laws and legal institutions by improving legislation, judicial decision-making, institutional design and structure, and the performance of other aspects of legal systems The knowledge acquired through applied comparative research should drive the engine of reform and inform the design and implementation of reform initiatives in these countries. Instead, reform efforts in developing and transition countries have tended to proceed from preconceived notions of what types of reforms should work. These preconceived notions need to be tested against experience to determine the extent to which they apply to and are the correct prescription across a wide range of settings.

Id. at 102–03.

26. Roger Alford wrote on a weblog dedicated to current developments in the field of international law and politics:

This past weekend was the second annual Empirical Legal Studies Conference at NYU. I had a colleague attend and he said it was an outstanding conference. Plenty of empirical research on courts, corporations, criminal law, bankruptcy, intellectual property, torts, securities, etc. But if you looked on the program for something on

Our data has shown that empirical research is less common in international law scholarship as compared with general law journal literature. For example, the number of articles containing both the term “t-value” and the word “international” is still less than 100 in our second time period of interest. However, the data shows a steady growth in this kind of research by international law scholars, so empiricism’s status as a poor relation may be soon ending.²⁷

II. PLUS ÇA CHANGE?

Most of us would agree that the Internet and other electronic resources have exponentially increased the amount of materials available to the international legal researcher. However, does all of this availability actually provide greater access to different viewpoints and perspectives or represent a broader range of topics in the literature? In 2000, Ms. Louis-Jacques contended that many gaps existed in both content and perspectives. In her article, she focused on specific topics as illustrations of the lack of depth: health law, travel law, and human rights. In order to determine if the past seven years have produced greater diversity, we decided to take these three areas and explore whether the amount of legal periodical literature has increased.

A. Health Law

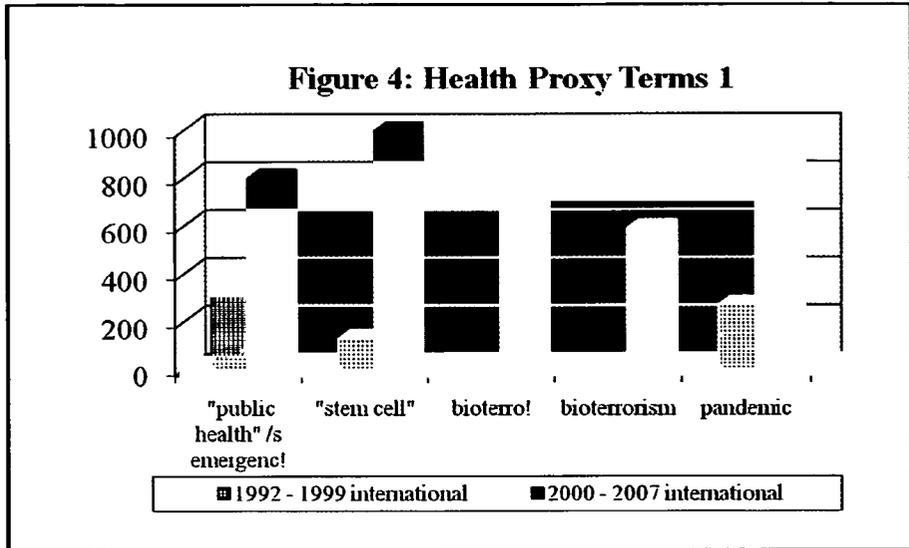
In order to determine if there has been an increase in diversity, we focused on the following terms to represent health law: pandemics/epidemics, bioterrorism, HIV/AIDS, public health emergencies, stem cell research, health and human rights, and intellectual property issues. Many of these terms were chosen because of world events of the last seven years. As noted in section I of this article, the events of 9/11 have had a profound impact on international

international law, you would come up disappointed. There was one panel featuring Allison Danner and Beth Simmons discussing this paper on the International Criminal Court, but beyond that nothing else relating to international law on the program. [Allision M. Danner & Beth Simmons, *Credible Commitments and the International Criminal Court* (June 1, 2007), available at <http://ssrn.com/abstract=991128> (last visited Mar. 3, 2008)]. It would seem that empiricism continues to be a poor step-child in the international legal academy and empiricists are ignoring a field ripe for harvest. Why the dearth of empirical research on international law, especially given the prevalence of empiricism in international relations scholarship?

Empirical Legal Studies and International Law, Posting of Roger Alford to *Opinio Juris*, available at <http://www.opiniojuris.org/posts/1194892946.shtml> (Nov. 12, 2007, 13:42 EST) (last visited Apr. 12, 2008).

27. See *supra* Fig. 3: Empirical Research Proxy Terms 2.

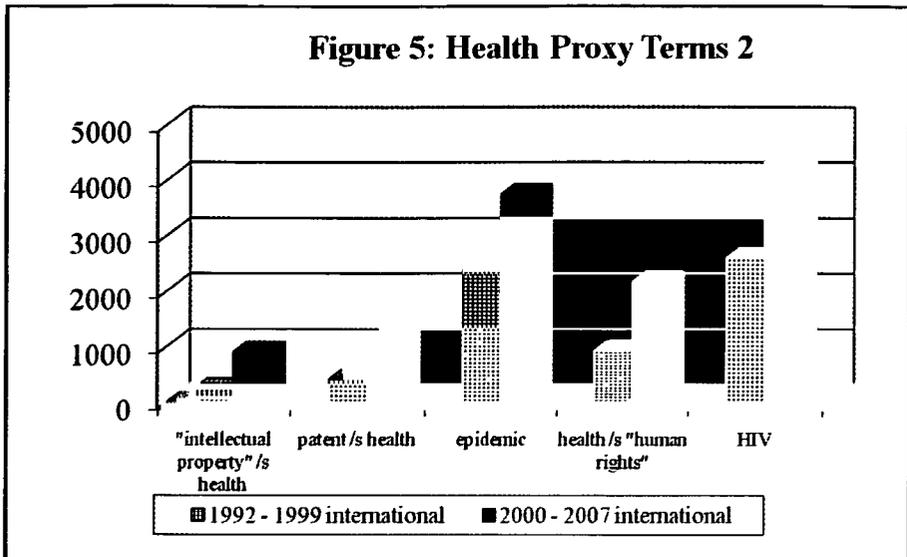
law scholarship. However, other events have also been influential and many of these events seem to be inter-related. For example, the threat of avian flu, health and human rights issues, biological weapons, and other related topics have all lead to an increase in interest in pandemics by international legal scholars.²⁸



It seemed probable to us that these events would influence the topics chosen by scholars, as well as the amount of information that has become available to researchers. Using the search terms noted above, the data confirms a definite increase in the number of articles written in the area of health in international law in the last seven years, with some topics (such as bioterrorism) seeing a much larger rise than others.²⁹

28. See *infra* Fig. 4: Health Proxy Terms 1. Another indication of evolving interest in health law issues is illustrated by a comparison of the contents of an annual article in the journal *International Lawyer* entitled *International Health Law*. An examination of this article over the past ten years illustrates that the focus has become epidemics, HIV/AIDS, and health and human rights issues.

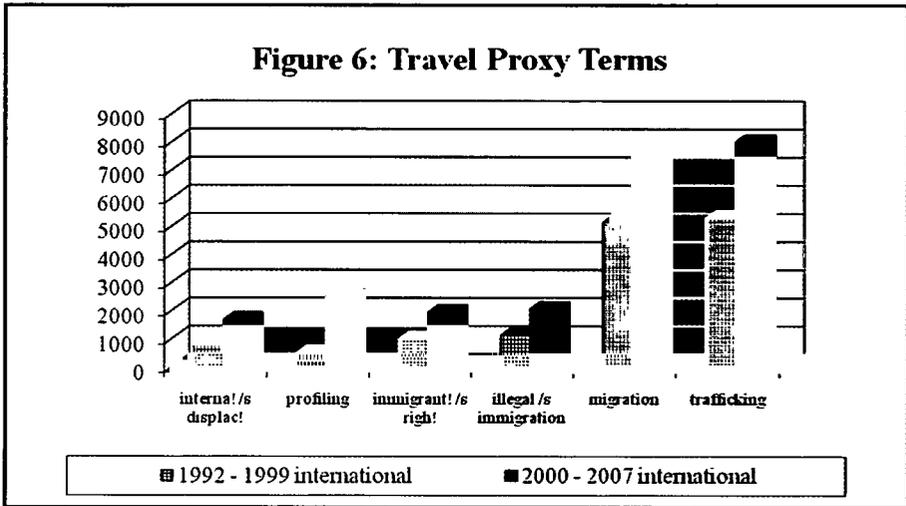
29. See *infra* Fig. 5: Health Proxy Terms 2.



B. Travel Law

The next category mentioned by Ms. Louis-Jacques is travel law. On the surface, this seems like a trivial subject, but it is a category covering some very important issues regarding the movement of people including migration, immigration, displaced persons, and human trafficking. Not surprisingly, there has been a marked increase in the number of international law articles addressing immigration, profiling, and internal displacement.³⁰

30. See *infra* Fig. 6: Travel Proxy Terms.

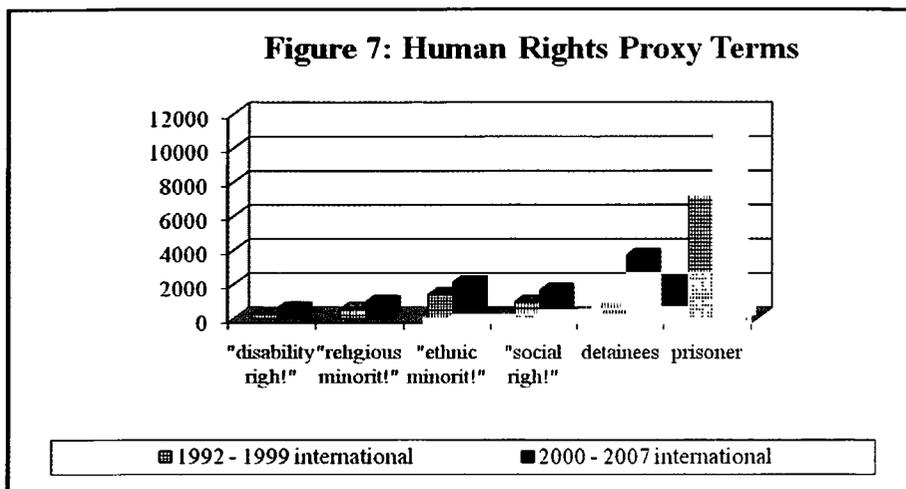


C. Human Rights

Interest in human rights has unquestionably been developing and expanding for quite some time. Access to information on human rights has truly been aided by the Internet and related technologies.³¹ Nevertheless, there are certain areas within human rights that are just now being explored. The developing topics within human rights include disabled persons, prisoners/detainees rights, ethic/religious minorities' rights, economic and social rights, and corporate responsibility. Once again, some of the increased interest in these topics is due to recent world events, especially regarding the rights of prisoners and detainees and the plight of religious minorities. We found that the international law literature has followed these trends with an increase in the literature on detainees, human rights, and prisoners.³²

31. See Mary Rumsey, *Gauging the Impact of Online Legal Information on International Law: Two Tests*, 35 SYRACUSE J. INT'L L. REV. xx (2008) of this symposium issue.

32. See *infra* Fig. 7: Human Rights Proxy Terms.



Each year we can point to new projects and show how each of these have the potential to improve access to information on topics that may have been neglected before. For example, there are other developments in the area of human rights research that are worth noting briefly. One such area is the justiciability of economic, social, and cultural rights; this area has emerged within the last ten years.³³ The other is the area of disability rights. The growing interest in this topic is illustrated through the United Nations Enable database, focusing on the rights of persons with disabilities.³⁴

D. Different Perspectives

Does the increase in the *amount* of literature on varied international law topics mean that more voices and perspectives are available? This is not something we could quantify in our research. However, we do know that the impact of the Internet and the ability to access and post commentary and analysis has been quite remarkable.

Over the past few years, the Internet has been transforming into

33. See, e.g., ESCR-Net Caselaw Database: A Database of Economic, Social and Cultural Rights Related Jurisprudence, Cases and Other Decisions, *available at* <http://www.eschr-net.org/caselaw> (last visited Mar. 5, 2008); *Leading Cases on Economic, Social and Cultural Rights: Summaries* (Centre on Housing Rights and Evictions, Working Paper No. 5) (2007), *available at* <http://www.cohre.org/store/attachments/Leading%20ESC%20Rights%20Cases%20%28WP5%29.pdf> (last visited Mar. 5, 2008). Both the website and the report provide researchers with access to case law and jurisprudence in this emerging area.

34. U.N. Enable, *available at* <http://www.un.org/disabilities/> (last visited Mar. 5, 2008).

what many call a social networking and collaborative platform with a focus on “user-created content.”³⁵ This includes changes in technology and how it is being used. Seven years ago, blogs, podcasts, RSS feeds, wikis, open access journals, and the like, were not in the mainstream of international legal scholarship.³⁶ Now there are blogs focusing on international law or specialized international topics, such as IntLawGrrls³⁷ and the International Economic Law and Policy Blog,³⁸ and more and more legal scholars recognize that blogs have the ability to spread new ideas and further discussion, even if they don’t have the depth of analysis of a law review article.³⁹ We can even point to the use of wiki technology, such as JurisPedia, to support international legal research.⁴⁰

Another transformation, even if not due to technology, is the change in the mindset of legal scholars and how they have embraced electronic working papers collections.⁴¹ One of the biggest impacts on

35. Also referred to as “user-generated content,” “user-created content” is defined in detail in chapter two of *Participative Web and User-Created Content: Web 2.0, Wikis and Social Networking*. OECD, PARTICIPATIVE WEB AND USER-CREATED CONTENT: WEB 2.0, WIKIS AND SOCIAL NETWORKING, 17–26 (2007), available at <http://213.253.134.43/oecd/pdfs/browseit/9307031E.PDF> (last visited Mar. 5, 2008).

36. In fact, Technorati is currently tracking 112.8 million blogs. Technorati, About Us, available at <http://www.technorati.com/about/> (last visited Mar. 5, 2008).

37. IntLawGrrls, available at <http://intlwgrrls.blogspot.com/index/html> (last visited Mar. 5, 2008).

38. International Economic Law & Policy Blog, available at <http://worldtradelaw.typepad.com/ielpblog> (last visited Mar. 5, 2008). Even blogs that don’t focus solely on international law tend to comment on these issues. See, e.g., Volokh Conspiracy, available at <http://volokh.com> (last visited Mar. 5, 2008).

39. Alfred L. Brophy, *Law [Review]’s Empire: The Assessment of Law Reviews and Trends in Legal Scholarship*, 39 CONN. L. REV. 101, 106–07 (2006).

Another trend is the increasingly serious discussion of law on blogs. . . . I think that blogs are now helping to spread ideas and to discuss them. . . . Of course, even when bloggers are exploring substantive ideas, the ideas are generally not explained in the same depth as a law review article—but they may be explored in the depth that is warranted. As we have a developing scholarship on the function of blogs, it is becoming increasingly clear that they are playing a role in gaining attention for new ideas and papers. The distribution of attention is rather lumpy, so that some prominent bloggers receive a lot of attention. Redistribution of intellectual wealth (like SSRN downloads) is a separate issue and something worthy of scrutiny in its own right.

Id.

40. “A Wiki-type portal, JurisPedia is an encyclopedic project of academic initiative devoted to worldwide law, legal and political sciences. Its objective is to create a universal legal encyclopedia.” JurisPedia, available at <http://www.jurispedi.org> (last visited Mar. 5, 2008).

41. Lawrence Solum, *Download It While Its Hot: Open Access and Legal Scholarship*, 10 LEWIS & CLARK L. REV. 841 (2006), available at <http://ssrn.com/abstract=957237> (last

legal scholarship has been access to working papers. While posting papers for comments has been done in other disciplines for quite some time, this is rather new for law, especially in the international context. Some of the major collections of these papers include the Legal Scholarship Network (LSN)⁴² and Berkeley Electronic Press.⁴³ LSN is also a vehicle for accessing articles that will eventually be published in books.⁴⁴ For those looking for content on the Internet, this could be a promising trend. Open access is the key to these tools and many other electronic resources.⁴⁵ As noted by Lawrence Solum, "open access legal scholarship creates an opportunity for a new kind of conversation about, besides, and around the conventional scholarly paper."⁴⁶

Open access has also increased the availability of online journals in both law and inter-disciplinary studies. Many such journals in the area of international and comparative law have emerged recently. For example, a relative newcomer is the *European Journal of Legal Studies* which "encourages thought-provoking, original and forward-looking publications and supports submissions by young lawyers and academics, including doctoral candidates."⁴⁷ Another example is the *Web Journal of Current Legal Issues*, a bi-monthly open access journal with a focus on "current legal issues in judicial decisions, law reform, legislation, legal research, policy related socio-legal research, legal information, information technology and practice."⁴⁸

Another benefit of open access collections of working papers and journals is just plain access for students, faculty and the general public.

A second trend is the democratization of legal knowledge through dissemination in Westlaw, Lexis, HeinOnline, Social Science Research Network (SSRN), and The Berkeley Electronic Press. Once

visited Mar. 5, 2008) (noting many of these transformations).

42. Legal Scholarship Network (LSN) is part of the Social Science Research Network (SSRN). Social Science Research Network, Legal Scholarship Network, *available at* <http://www.ssrn.com/lisn/index.html> (last visited Mar. 5, 2008).

43. Berkley Electronic Press, *available at* <http://www.bepress.com> (last visited Mar. 5, 2008).

44. *See, e.g.*, Mark A. Drumbl, *Actors and Law-Making in International Environmental Law*, in RESEARCH HANDBOOK OF INTERNATIONAL ENVIRONMENTAL LAW (Ong & Fitzmaurice eds., 2008), *available at* <http://ssrn.com/abstract=1022363> (last visited Mar. 5, 2008).

45. For more information, see *Symposium: Open Access Publishing and the Future of Legal Scholarship*, 10 LEWIS & CLARK L. REV. 733 (2006).

46. Solum, *supra* note 41, at 846.

47. European Journal of Legal Studies, Mission Statement, *available at* <http://www.ejls.eu/index.php?mode=mission> (last visited Mar. 5, 2008).

48. Web Journal of Current Legal Issues, *available at* <http://webjcli.ncl.ac.uk/admin/welcome.html> (last visited Mar. 5, 2008).

it mattered where an article was published because journals had widely differing distributions. A few elite journals are still available in each school's faculty library, in addition to their main law library, and are circulated to individual faculty members. However, a text will be no more likely to be found in a computer search if it appeared in the Columbia Law Review, than if it appeared in the Alabama Law Review, or the Oklahoma City University Law Review. And in recent years, terrific scholarship has appeared in journals at U.S. News' fourth tier schools. This is part of the democratization of legal education, and more generally, of good work being done across the academy and of students at all levels of law school having access to outstanding, energetic faculty.⁴⁹

If new technologies and philosophies about access have allowed for more diversity of viewpoints, so has the sheer number and variety of law journals. Almost every law school can point to an in-house international legal journal (or one which focuses on an international topic, like environmental law or human rights).⁵⁰ Over the years, there has been much debate on the value of student-edited law reviews,⁵¹ including whether they promote or hinder different perspectives and viewpoints.⁵²

49. Brophy, *supra* note 39, at 106 (footnote omitted).

50. David J. Bederman, *I Hate International Law Scholarship (Sort of)*, 1 CHI. J. INT'L L. 75, 80 (2000).

Fifty years ago, there was no such thing as a student-edited international law review. Indeed, there were only a handful of peer-reviewed journals devoted to international law. But, starting in the 1960s with the Virginia Journal of International Law and the Harvard International Law Journal, this phenomenon began, and by the 1970s and 1980s, the number of such journals proliferated. Today, we have over fifty general international law journals. Indeed, we now have specialized student-edited international law journals for human rights, ocean law, and international environmental law.

Id. Interestingly, some major specialized international topic journals have become general international law journals over the past few years, for example the *Georgetown Journal of International Law*, formerly known as the *Journal of Law and Policy in International Business*, and the *Minnesota Journal of International Law* which used to be called the *Minnesota Journal of Global Trade*.

51. See, e.g., Richard A. Posner, *The Future of the Student-Edited Law Review*, 47 STAN. L. REV. 1131 (1995). Recently, at the "Conference on International Law: What is Wrong with the Way We Teach and Write International Law," there was a panel called "What is Wrong With Our Scholarship," which debated many of the issues surrounding student-edited journals. Association of American Law Schools, Conference on International Law: What is Wrong with the Way We Teach and Write International Law, available at http://www.aals.org/events_2007international.php (last visited Mar. 18, 2008).

52. Solum, *supra* note 41, at 850.

Second and third year law students are not experienced legal scholars. They are likely to reject important new scholarship when they fail to comprehend its significance. They are likely to accept bad scholarship that "sounds impressive" or

Some commentators note that even if student-edited international journals do not put out top quality scholarship, they do allow for more diverse perspectives and viewpoints. One student editor responded to some of these criticisms with the following comment:

Not every article will make every reader happy. Instead of harming legal scholarship, such a system encourages a more robust body of scholarship. When student editors “err” in article selection, this can allow controversial ideas to surface for discussion, allowing alternative perspectives and methodologies to be analyzed and critiqued. This is of great benefit to legal scholarship.⁵³

As student-edited journals have proliferated, so have peer-reviewed journals. These journals have picked up the slack in many topical areas where student journals have faltered. In the area of international, foreign and comparative law, such newcomers include the *International Journal of Transitional Justice* (2007–), *Religion and Human Rights* (2006–), the *Asian Journal of WTO & International Health Law and Policy* (2006–), and the *International Community Law Review* (formerly *Non-State Actors and International Law*, 2001–).

Peer review has the potential to dramatically improve the quality of legal scholarship. There seems to be a trend toward increasing publication of monographs in the legal academy, and the rigors of the peer review process and the steady attention to the bottom line among university presses ensures substantial quality controls. Moreover, the peer review process at journals is, I think, leading to increased attention to the quality of articles.⁵⁴

Even if we ignore the new formats such as blogs and open access journals, we can safely say access to international and foreign legal information has improved over the past decade. The Internet has made comparative research somewhat easier,⁵⁵ especially since many

addresses a “hot topic.” Because students are not well-acquainted with the literature, they are likely to favor scholarship that rehearses old arguments before adding a new point. Of course, law students aren’t stupid. They are likely to understand their own limitations, and that creates another problem. If student editors cannot trust their own judgment, then they are likely to rely on “proxy variables,” e.g. the institutional affiliations of authors or their prior record of publication.

Id. See also, Bernard J. Hibbitts, *Yesterday Once More: Skeptics, Scribes and the Demise of Law Reviews*, 30 AKRON L. REV. 267, 291–92 (1996).

53. Natalie Cotton, Comment, *The Competence of Students as Editors of Law Reviews: A Response to Judge Posner*, 154 U. PA. L. REV. 951, 958–59 (2006).

54. Brophy, *supra* note 39, at 105 (footnote omitted).

55. “The Internet has greatly facilitated worldwide access to legal information.” Claire M. Germain, *Legal Information Management in a Global and Digital Age: Revolution and*

governments offer free access to laws and official documents, even for smaller jurisdictions. This is facilitated by those who create research guides and compile information so that researchers can access this information quickly. A look at the variety of countries covered in GlobaLex, a collection containing international, comparative, and foreign law research guides,⁵⁶ indicates that access to information for some jurisdictions (countries like Afghanistan, Chad, and Burkina Faso), has certainly improved. Does this mean that there is a broader range of viewpoints available? Not necessarily. But if there is better access to laws from smaller and more diverse jurisdictions, more comparative research can be done by academics and practitioners.

Language is an issue that is often raised when trying to determine if Internet technologies have increased diversity. A recent UNESCO report indicates that the predominance of the English language on the Internet is declining.⁵⁷ In 1998, 75% of websites were in English; whereas in 2003, the number of websites in English dropped to approximately 43%.⁵⁸ This same report indicated the diversity of Internet users was also on the rise.⁵⁹ However, does this increase in linguistic diversity necessarily mean that more non-Western, non-English perspectives on international law are available? And, even if we all agree that there is access to more diverse information, does that mean that scholars, lawyers, and judges are accessing and using this information?

III. LINGERING GAPS

We have shown that there has been an increase in the coverage of certain topics and there may be greater availability of diverse viewpoints, or at least an improvement of the mechanisms for making those viewpoints more available. Nevertheless, it is necessary to note some of the lingering gaps in international legal literature in format,

Tradition, 35 INT'L J. LEGAL INFO. 134, 143 (2007).

56. Hauser Global Law School Program, GlobaLex, available at <http://www.nyulawglobal.org/globalex/index.html#> (last visited Mar. 18, 2008).

57. John Paolillo et al., *Measuring Linguistic Diversity on the Internet* (2005), available at <http://unesdoc.unesco.org/images/0014/001421/142186e.pdf> (last visited Mar. 22, 2008).

58. *Proportion of Web Pages by Language*, FUNREDES, 2003, available at <http://portal.unesco.org/ci/en/files/20981/11374287021figure2.pdf/figure2.pdf> (last visited Apr. 14, 2008).

59. *Estimated Diversity of Internet Users*, GLOBAL REACH, available at <http://portal.unesco.org/ci/en/files/20986/11375100461figure5.pdf/figure5pdf> (last visited Apr. 14, 2008).

content, and other kinds of areas.

A. *Format and Content Gaps and Fillers*

Many of the basic tools international legal researchers rely upon are still unavailable electronically, not even for a fee. As noted in Ms. Louis-Jacques' article (and we are sure many would agree) these tools are still used on a regular basis: *World Treaty Index*, *International Law Reports*, the *Encyclopaedic of Public International Law*, the *International Encyclopedia of Comparative Law*, *Szladits' Bibliography on Foreign and Comparative Law: Books and Articles in English*, *International Legal Materials* and *Index to Foreign Legal Periodicals* (IFLP). Some of these resources are available electronically through fee-based services (e.g., IFLP), but none of them is freely available on the Internet.⁶⁰ New electronic research resources have also appeared in recent years. For example, in 2007, Oxford University Press (OUP) launched a new database called *International Law in Domestic Courts*.⁶¹ While this project is in its beginning stages, it demonstrates the promise of delivering high quality information on the Internet.

In the area of freely available Internet resources, the U.S. State Department has started posting the documents referred to in the print version, with some retrospective coverage, of the *Digest of United States Practice in International Law*. The State Department also makes U.S. treaties and international agreements freely available on the Internet; unfortunately, the documents are scattered throughout the website, and can be difficult to locate.⁶²

Other terrific free Internet resources include EUR-Lex, the portal to European Union law.⁶³ This collection, with its coverage and search capabilities, far exceeds many of the fee-based services available for EU law. Other international organizations, such as the World Intellectual Property Organization (WIPO), the World Trade Organization (WTO),

60. In the case of the *World Treaty Index*, there is an electronic version of the print available in beta form, but we don't believe it has gone beyond the beta stage. See *World Treaty Index*, available at <http://db.lib.washington.edu/wti/wtdb.htm> (last visited Apr. 14, 2008).

61. *International Law in Domestic Courts*, OXFORD UNIVERSITY PRESS, available at <http://ildc.oxfordlawreports.com> (last visited Feb. 10, 2008). OUP is also developing an electronic and updated version of the *Encyclopedia of Public International Law* as well as some other international law products. Eventually, this publisher may allow searching of this and other products through one search platform.

62. See <http://www.state.gov/s/l/treaty>.

63. EUR-Lex, The Access to European Law, available at <http://eurlex.europa.eu/en/index.htm> (last visited Mar. 4, 2008).

and the International Labour Organization (ILO), have made a tremendous amount of information, both international and foreign law, freely available and relatively easy to use, on their own websites.

Legifrance is a good example of a website that provides access to national law without a fee (and even offers reliable translations of some French codes).⁶⁴ In spite of this progress, many jurisdictions are still not able to post their laws on the web, even in their own languages. “Although there is free access to significant amounts of public legal information in the most economically developed countries, this is not the case in most developing countries.”⁶⁵ Ms. Louis-Jacques also mentions that “[e]lectronic sources seem to mimic the poverty of print resources when it comes to topics and countries covered—the focus is on major countries and major topics, especially anything related to business law.”⁶⁶ This is largely still the case. While there have been some improvements in jurisdictional and topical coverage, major countries and business related topics still predominate.

It is important to note that even when resources are available electronically, the coverage may have holes or start at dates later than the print versions. For example, IFLP is available through Westlaw and as a web-based service, but the electronic coverage only dates back to 1985. The print version, however, begins in 1960. Another example is the *United Nations Treaty Series* online,⁶⁷ where access to all language versions for treaties may not be available.

Holes in coverage are not limited to fee-based services. Many electronic collections on inter-governmental (IGO) and non-governmental (NGO) websites are incomplete or only go back ten to fifteen years. It is still the case, for example, that many older and limited distribution U.N. documents are not available electronically. While the World Trade Organization (WTO) has made tremendous strides in making WTO documents freely accessible, many General Agreement on Tariffs and Trade (GATT) documents remain available

64. Legifrance, available at <http://www.legifrance.gouv.fr/html/index.html> (last visited Mar. 22, 2008). Legifrance provides national law, including translations of a handful of codes, such as civil, commercial, and criminal codes. *Id.* For more information on translations, see Mary Sexton’s article on translations in this symposium.

65. Graham Greenleaf et al., *Emerging Global Networks for Free Access to Law: WorldLII’s Strategies 4* (University of New S. Wales Faculty of Law Research Series, Working Paper 16, March 2007), available at <http://law.bepress.com/unswwps/flrps/art16> (last visited Mar. 17, 2008).

66. Louis-Jacques, *supra* note 1, at 104.

67. United Nations Treaty Collection, Access to Databases, available at <http://untreaty.un.org/English/access.asp> (last visited Mar. 17, 2008).

only in microfiche.⁶⁸

There is also instability with many electronic sources. We still suffer from “here today, gone tomorrow.” There are far too many illustrations of these problems to mention, so researchers need to pay attention to the notes on the coverage for each database and service.

B. Other Kinds of Gaps

Another issue that causes gaps in comparative and international scholarship is the never-ending price increases for proprietary electronic (and print, for that matter) content. As more and more information is priced beyond the reach of academic and public libraries, even researchers from well-funded institutions will not be able to access all information on a given topic. Not all researchers, even those in the major first-world institutions, have access to the expensive databases. Compound this issue with the feasibility and cost of Internet access in some parts of the world, and there is a continual divide (or gap) between the haves and the have-nots.

Ironically, access to more content and better technology may make research even more difficult. The use of Google and Google-like interfaces is making it more difficult to teach students and practitioners (and even some faculty) that they need to do more than a mere keyword search. As noted by Richard Danner, “[l]egal research requires complex finding tools, as well as the means to evaluate how current the sources are and to measure the continued validity of the sources.”⁶⁹ Will researchers search through all of the available information on an international or comparative law topic (including books, journal literature, inter-disciplinary databases, proprietary legal databases, podcasts, blogs, etc.) when each tool has its own interface and search mechanisms? Most are not willing to spend the time to learn how to use each source.

This goes back to the issue of dependence on “convenient and readily available tools.”⁷⁰ Many American legal researchers assume that everything is available on the Internet, not just for American law, but also for international and foreign law. Even when they relent and understand that they need to do more than web searches, they still

68. According to the WTO website, “[o]f the roughly 88,000 documents issued under GATT, about 51,000 are available through the links below [on the website].” WTO, GATT documents, *available at* http://www.wto.org/english/docs_e/gattdocs_e.htm (last visited Mar. 17, 2008).

69. Danner, *supra* note 5, at 185.

70. *Id.* at 191.

gravitate towards LexisNexis and Westlaw. Many researchers are not aware of the freely available content because they do not know how to access it. When they finally realize that they have to search other services, like EUR-Lex, they are not prepared for the alternate interfaces and search capabilities. Therefore, researchers unfamiliar with these sources often give up on a database if it is not available in English or is not structured to search in the same manner as LexisNexis, Westlaw, or Google. This is compounded by the fact that they may not understand how law is organized in another country or by an international body and therefore search for the wrong kinds of materials or use the wrong terminology.

IV. MORE CHANGES AHEAD

Over the past year or so, many law journals have begun to issue electronic companions that update readers on information in the articles that are published and to provide an area for feedback and discussion. In many respects, these sites bridge a gap between journals and blogs. Some examples of these include the *Yale Law Journal Pocket Part*, an online companion to the *Yale Law Journal*,⁷¹ and the *Harvard International Law Journal Online*.⁷² Some other journals have taken this concept even further.⁷³ *The Crit*, from the University of Idaho Law School, focuses on a “multidisciplinary approach” and accepts a variety of contributions, including audio and video as well as text. The *Southern California Law Review* has launched Postscript, featuring an interactive venue. “Postscript gives the *Law Review* an opportunity to reach broader audiences and encourage debate and discussion.”⁷⁴

The “free access to law movement” has been underway for the past few years.⁷⁵ Major players in this movement are the Legal Information

71. *The Yale Law Journal Pocket Part* is the online companion to *The Yale Law Journal*. As members of the legal community know, legal publications often contain “pocket part” supplements with up-to-date information. The *Pocket Part* plays an analogous role by augmenting the scholarship printed in *The Yale Law Journal*. It provides original essays and responses to articles printed in the *Journal*. See YALE L.J., POCKET PART, available at <http://www.yalelawjournal.org/> (last visited Mar. 17, 2008).

72. HARV. INT’L L.J. ONLINE, available at <http://www.harvardilj.org/online> (last visited Mar. 17, 2008) (publishing “brief, focused articles on a variety of international law topics”).

73. See Ken Strutin, *Guide to Short Form Open Access Legal Publications*, LLRX.COM, July 27, 2007, available at <http://www.llrx.com/features/shortformjournals.htm> (last visited, Mar. 17, 2008).

74. Joe Hodnicki, Two New Law Student Run Publications (Nov. 26, 2007), available at http://3lepiphany.typepad.com/31_epiphany/online_law_review_companions/index.html (last visited Mar. 20, 2008).

75. Greenleaf, *supra* note 65, at 7.

Institutes (LIIs). Each LII is “a provider of legal information that is independent of government, and provides free access on a non-profit basis to multiple sources of essential legal information.”⁷⁶ A main contributor in this movement is the World Legal Information Institute (WorldLII), which is comprised of twelve LIIs. Some of these institutes include Australia, Southern Africa, Canada, the Pacific Islands, Hong Kong, and Cyprus. Because of the work of the members of the Free Access Movement, researchers now have access to more than 877 databases from 123 countries and territories.⁷⁷ Work is currently underway with countries where access to law has been more difficult, like Cambodia, Indonesia, and Timor. This project has continued to develop by adding international legal content as well, including international decisions and treaties. For instance, the International Courts & Tribunal Project contains decisions from twenty international courts and tribunals.⁷⁸ All of this content is supplemented by the WorldLII catalog where researchers can learn about other databases organized by country, regions, subjects, and other groupings.⁷⁹

CONCLUSION

International legal scholarship has evolved considerably since Ms. Louis-Jacques's 2000 article. It is no surprise that recent trends in legal scholarship specifically, the unprecedented accessibility to international materials made possible through the Internet and other advances in technology and the creation of new media outlets have all affected international law scholarship.

Our research indicates that international law research has followed the prevalent intellectual trends in legal scholarship for interdisciplinary and empirical scholarship, with a general increase in the international law literature using both interdisciplinary and empirical methodologies. However, these measures indicate that international law scholarship still lags behind legal scholarship generally in its use of both methodologies.

76. *Id.* at 5.

77. World Legal Information Institute, *available at* <http://worldlii.org/> (last visited Mar. 20, 2008).

78. International Courts & Tribunals Library, *available at* <http://www.worldlii.org/int/cases/> (last visited Mar. 20, 2008). *See also* International Treaties Library, *available at* <http://www.worldlii.org/int/special/treaties> (last visited Mar. 20, 2008) (including treaties from the Australian Treaty Series, the Pacific Island Treaty Series, and other information).

79. For more information on WorldLII and its further development, see Greenleaf, *supra*, note 65 and World Legal Information Institute, *available at* <http://worldlii.org/> (last visited Mar. 20, 2008).

It has proved less easy to measure whether the increased access to international legal information and the development of new outlets for scholarship made possible by technological advances have increased the expression of different perspectives and viewpoints in international law scholarship. However, these changes and developments have made access to scholarship more readily available and we hope these trends continue to allow scholars freedom to explore and express under-represented topics, approaches, and viewpoints in the future.

APPENDIX A:

Table 1: Raw Data of Proxy Terms					
Category	Proxy Term	1992-1999	1992-1999 international	2000-2007	2000-2007 international
National Security Proxy Terms	terrorism	3951	3207	14726	11764
	"law of war"	1418	1327	3199	3075
	torture	5684	4263	9950	8283
	"national security"	8843	6843	14904	11821
	"military tribunal"	1063	964	2997	2716
Interdisciplinary and Empiric Proxy Terms	regres!	4572	2559	6473	3857
	empiric	113	67	7683	4517
	qualitative	6009	3734	9050	6082
	quantitative	7817	5053	10848	7378
	"statistic! Significant!"	3437	1897	5170	3100
	"Table 1"	5181	2714	8532	5131
	median	4858	2412	7585	4059
	number of observations	356	203	589	382
	confidence interval	338	212	583	345
	t-value	138	63	170	95
Health Proxy Terms	"public health" /s emergenc!	547	300	1162	798
	"stem cell"	201	127	1490	996
	bioterro!	6	5	874	658
	bioterrorism	5	4	781	588
	pandemic	368	268	1064	901
	"intellectual property" /s health	311	257	1021	906
	patent /s health	507	417	1277	1100
	epidemic	3992	2375	5534	3749
	health /s "human rights"	1021	920	2355	2168
	HIV	4633	2601	6323	4355
Travel Proxy Terms	interna! /s displac!	746	765	1675	1708
	profiling	484	909	2492	3955
	immigrant! /s righ!	984	1255	1937	2477
	illegal /s immigration	1127	1501	2064	2636
	migration	5137	3619	7999	6131
	trafficking	5288	3279	8014	5864
Human Rights Proxy Terms	"disability righ!"	464	242	1081	600
	"religious minorit!"	973	553	1408	967
	"ethnic minorit!"	2156	1392	3138	2122
	"social righ!"	1110	973	1845	1646
	detainees	1436	956	4502	3718
	prisoner	13227	7155	18058	11419