Legal Research Resources

BICC150 - Legal Research for Immigration

Locating and using Humber Library’s Law Resources

Adam Weissengruber
Copyright & Law Librarian
Humber Libraries
adam.weissengruber@humber.ca
Learning Goals

- Understand the services and collections available from the Humber Library
- Provide an understanding of Canadian secondary legal sources
- Locate and identify legal literature in print and electronic sources
- Discover how to effectively use major legal research databases:
  - LexisNexis Quicklaw
  - Westlaw Canada/LawSource
  - CanLII (Canadian Legal Information Institute)
- Acquire the skills to successfully research your assignment topics
Where to Get Started:
http://library.humber.ca
What is Legal Research?

- Finding relevant cases and legislation using textbooks, journal articles, encyclopedias and other reference tools
- Verifying that the law is still valid and not overruled, repealed or otherwise questioned or criticized
Some Basic Concepts...

Primary sources vs. secondary sources:
- Only primary sources (the constitution, legislation, civil code and cases) have the force of law
- Secondary sources are commentaries on the law that are essential to locating and understanding the law

Goal of legal research:
- Find relevant primary legal resources (relevant cases and legislation)
Secondary Legal Resources

- Books/textbooks/treatises
- Legal journals
- Encyclopedias
- Dictionaries
- Case digests
- Legal reference tools (newspapers, newsletters, blogs...)
Legal terminology & Abbreviations

You will encounter Latin terminology, legal terminology or other legal jargon

It’s important to use law dictionaries to learn meaning of words

Dictionaries:
- Daphne Dukelow, Dictionary of Canadian Law - REF KE183 .D83
- John Yogis, Canadian Law Dictionary - KE183 .Y63
- Black’s Law Dictionary - REF KF156 .B53
- Irwin Law’s Canadian Online Legal Dictionary: https://www.irwinlaw.com/cold

Lots of abbreviations in legal research: e.g. D.L.R., SCC, O.R.(3d).

There are many sources for deciphering abbreviations:
- The Cardiff Index: http://www.legalabbrevs.Cardiff.ac.uk
- Tables of Abbreviations in the front of books
Books

- Provide an overview of a topic
- Will summarize the leading cases and key statutes
- Provide citations to the most relevant cases and legislation
  - Most treatises/textbooks will contain a table of cases and table of statutes
  - Tables are essential research tools: sometimes you start with a case - and a book is a quick way of finding what this case is about and identifying other similar cases
view to determining whether it accorded with principles of procedural fairness. Choi appeared at the Canadian Commission in Hong Kong and inquired how to apply for landing. He was provided with a PAQ, but was not informed that he could make an application without submitting this questionnaire. After Choi obtained the positive results of the questionnaire, but before he submitted an application, the criteria for landing had been amended. While he would have qualified under the earlier criteria, he no longer did. MacGuigan J.A. stated:

[W]hen the Canadian government, through its agents, undertakes to supply information to immigration applicants as to how to become immigrants, it assumes a duty to provide this information accurately. This does not imply that Canadian authorities must provide a detailed exegesis of Canadian immigration law and procedures...but it does mean that the immigration authorities have an obligation in fairness to provide basic information on the methods of application, and to make available the appropriate forms.3

The application itself will identify the applicant’s education and employment experience, specify whether employment has been arranged, and may refer to the type of occupations the applicant would consider accepting. After an application has been submitted, the visa officer will engage first in a “paper screening,” in which some of the criteria for selection, outlined below, are applied. Should the applicant receive a positive assessment, an interview will be arranged, although in exceptional circumstances an interview may be waived.3

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3. ibid. at 769-70.
4. As outlined below, a positive assessment is an assessment of sixty points under all selection criteria except that of “personal suitability,” with at least one point being given under each of the criteria of “experience” and “occupational demand.” The visa officer has discretion to hold an interview even when this requirement is not met.
5. The Immigration Manual identifies five circumstances where the interview may be waived: Where the applicant is clearly admissible, has received the required number of points without taking into account personal suitability, requires minimal suitability, is remote from a place of interview, or where there are compelling humanitarian or national interest grounds for facilitating the
Books (& eBooks)

Locating Books & eBooks

▶ The Library Catalogue
▶ Library’s Discover search
▶ eBook Collection List

Accessing Books & eBooks

▶ Books - library account (barcode sticker on your student card) to borrow material from the library
▶ eBooks - Humber account and password
Journals

- Journals tend to deal with new issues and emerging areas of law
- Tend to take a more analytic and critical approach to a topic
- They are usually written by experts in their field
  - Academic or scholarly (Authors are typically professors or students)
  - Practitioner based (written by those with specialized expertise - e.g. lawyers, judges)
- Often refer to relevant case law or legislation in the text or footnotes
Journals

Locating Journals & Articles

- A large percentage of law journals are available online

- Main online sources:
  - Westlaw Canada/LawSource
    - LawSource Journals and Law Reviews
    - Main search box
  - LexisNexis Quicklaw
    - Law Reviews & Journals
    - Main search box
  - Library’s Discover search
Legal Encyclopedias

- Encyclopedias allow researchers to familiarize themselves with the basics of the law
  - Encyclopedias typically do not contain analysis or critical evaluation but instead provide a clear concise statement of the law as it is derived from statute or case law
  - Encyclopedias are particularly useful if there is no text or treatise available on the subject that you are researching
Legal Encyclopaedias & Digests

Major Canadian Legal Encyclopedias

- Canadian Encyclopedic Digest - C.E.D. (Westlaw/LawSource)
- The Canadian Abridgment Digests (Westlaw/LawSource)
- Halsbury’s Laws of Canada (LexisNexis Quicklaw)

Each resource offers a slightly different perspective and is updated on a different schedule. Halsbury’s is national in scope, while the C.E.D. provides national coverage with some regional specialization - Ontario & Western. Halsbury’s reads more like a treaties, whereas the C.E.D.’s discussions are briefer.
Other Secondary Sources

Legal Newspapers and Magazines

Legal newspapers and magazines are not academic in tone but are one of the best means of keeping current.

They feature news, commentary and digests of current cases. Examples:

- The Lawyer’s Daily
- Canadian Lawyer

Cases of national importance will be covered in newspapers.

Also, a large proportion of legal disputes get settled and details about settlements are not available using the typical legal research tools - they only cover actual judgments and reasoning.
Legal Citation

The Law has detailed and sometimes complicated and unique citation rules. For Canada the rules are found in:

- The Canadian Guide to Uniform Legal Citation (The McGill Guide)
  - In Print: KE259 .C35 2018 (Reference Collection)
  - Online: In Westlaw/LawSource
    - Path: https://library.humber.ca/atoz_landing/C > Canadian Guide to Uniform Legal Citation
Goal of Legal Research

Secondary Resources
(books, journals, encyclopedias, reference tools)

Primary Resources
(cases and legislation)
Primary Sources

Legislation

- Statutes and regulations
  - Department of Justice Canada: http://laws-lois.justice.gc.ca
    - Canadian statutes and regulations prepared by the Department of Justice Canada
    - Contains consolidated versions of most of Ontario's public statutes and regulations

Common Law (Case Law)

- Consists of judge-made law, as represented by decisions of the courts handed down over time
Case Law

Print case law reporters (Dominion Law Reports, Ontario Reports, etc.)

- Cases are selected for inclusion based on multiple factors:
  - such as whether they make new law by dealing with a novel situation
  - clarify conflicting decisions
  - or interpret widely-applicable legislation
  - Ontario Reports is available through LexisNexis Quicklaw

Most cases included in Ontario Reports are published within three months of their release by the court

Case Digests are brief summaries of cases (digests) organized by topic

- The major case law digest in Canada is the Canadian Abridgment (Westlaw/LawSource)
Case Law

- LexisNexis Quicklaw and Westlaw Canada/LawSource
  - have agreements to get electronic copies of decisions released by the court

- Canadian courts also publish their recent decisions on their court website

- CanLII (Canadian Legal Information Institute)
  - Free online resource
  - Online decisions are very current (often same day)
  - Commentaries can be found on CanLII Connects
Online Case Law Searching

Case Law Databases

- Westlaw Canada / LawSource
- LexisNexis Quicklaw
- CanLII
Online Case Law Searching

Case Law Databases

- Each database offers a case law search that covers all the available cases for a particular jurisdiction
- Term or keyword connectors vary across the systems always check for a searching tips section on the site
- Use synonyms, truncation and connectors
What makes a case a “leading” case?
- A judicial decision that first definitively settled an important legal rule or principle
- An important judicial precedent on a particular legal issue

There is no simple formula. Some considerations:
- Court level and reputation of court
- Cited in other cases
- Cited in leading secondary sources
Tribunals - Another Type of Court

- Access decisions of the Canadian Immigration and Refugee Board, All Divisions in Quicklaw.
  - Quicklaw > Tribunal Decisions > Canadian Immigration and Refugee Board, All Divisions
Research Steps - Overview

- **Books**
  - Library catalogue and Discover search

- **Journal Articles**
  - LexisNexis Quicklaw
    - All Canadian Legal Journals
  - Westlaw/LawSource
    - Index to Canadian Legal Literature
    - Law Reports Articles and Journals
  - Discover search

- **Encyclopedia articles/Digests**
  - Canadian Encyclopedic Digest (Westlaw/LawSource)
  - Halsbury’s Laws of Canada (LexisNexis Quicklaw)
Research Steps - Overview

- **Cases**
  - LexisNexis Quicklaw
  - Westlaw/LawSource
  - CanLII

- **Note Up**
  - LexisNexis Quicklaw: QuickCITE
  - Westlaw/LawSource: KeyCite
Legal Research Process

Legal research is more than just the effective use of books and online resources; it is also the analysis and thought processes that occur as part of conducting legal research.

- Before actual research begins, think about and analyze the problem: facts & issues ➔ keywords
- Once the facts and issues have been defined, the legal research can begin by using the various techniques and resources
- When the various bits of research have been uncovered, it is time to analyze the research, and where necessary, conduct more research
Foreign caregivers face new hurdles to stay in Canada

By NICHOLAS KEUNG Immigration Reporter
Sat., June 30, 2018

Vilma Grafil was thrilled when she got a work permit to come to Canada as a foreign caregiver in January 2017.

As she works toward the minimum two years of full-time employment to become eligible for permanent residency, she has noticed the work permit issued to her on arrival in Canada falls short of the time she would need to meet that requirement.

Canada’s immigration program for migrant caregivers under review

By NICHOLAS KEUNG Immigration Reporter
Mon., Feb. 5, 2018

Foreign caregivers will not be eligible for permanent residence if they have not accrued two years of employment by Nov. 29, 2019, according to a notice posted by the Immigration Department.

The federal government is currently reviewing Canada’s two programs for foreign caregivers — one for those caring for children and the other for those caring for adults with...
Facts & Issues

What are the legal challenges & difficulties for individuals who came to Canada to work as live-in caregivers and want to become permanent residents?

- Before actual research begins, think about and analyze the problem: facts & issues keywords
- Once the facts and issues have been defined, the legal research can begin by using the various techniques and resources
- When the various bits of research have been uncovered, it is time to analyze the research, and where necessary, conduct more research
Keywords

- Foreign caregiver
- Foreign domestic worker
- Live-in caregiver
- Permanent resident

Potential Process

- Search for articles on the topic
- Search for entry in the C.E.D.
- Find court cases
Exercise

http://tiny.cc/biccc150
And to conclude...

Starting your research

- [http://library.humber.ca](http://library.humber.ca)
  - Legal Research Resources page
    - More options > My Program/Topic > Legal Research
  - Library Databases
    - More options > Database List
    - LexisNexis Quicklaw under “Q”
    - Westlaw/LawSource under “L”

- Legal Research Guide
  - [http://libguides.humber.ca/legalresearch](http://libguides.humber.ca/legalresearch)
    - This guide contains direct links to research databases, key website, book locations, and more.

Contact me

- adam.weissengruber@humber.ca