



Government Documents around the World

Access Policies and Strategies of Disclosure

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Professional Perspectives — Tools and Techniques of the Trade. The Professional Development Committee encourages members to continue to explore topics after presentations at the local, regional and national levels. We welcome your comments and article suggestions. Please contact Lori Hedstrom at 651/687-5891 or lori.hedstrom@westgroup.com.



Law libraries across the country have encountered an increase in law-related questions about other countries. Foreign government documents become increasingly important as industry and people leapfrog borders in pursuit of trade and generate a need for legal information about other countries. Yet legal information from non-English-speaking jurisdictions is frequently in demand but often difficult to access.

In the civil law jurisdictions of China, France and Mexico, however, the ability to find and access government documents and primary legal materials has become easier than ever before. The proliferation of the Internet and the growing acceptance that citizens have a right to be informed about their governments' operations have increased disclosure of and access to government documents in each of these countries.

Different civil law and common law jurisdictions approach dissemination of their primary materials, government information and publications differently. Access to and disclosure of documents issued by parliaments, governments, courts and their official agencies depend on each country's judicial process, legal tradition and political system. Accessing these materials also hinges on how a specific jurisdiction defines a government document as well as the necessity to disclose it to its citizens.

The common law tradition of Australia, Canada, the United Kingdom and the United States provides a comprehensive system for distributing government documents. In the past, civil law jurisdictions espoused reservations about the comprehensive disclosure of what might be broadly called "government documents." However the electronic environment of recent years has tremendously changed the way governments allow their citizens and worldwide legal specialists to access their countries' government documents and primary legal materials.

Crossing the Great Wall of Chinese Law

Searching for Chinese government information requires a change in the typical

American perception of legal research. Unlike the United States, a vast amount of government information in China is not available to the public.

The People's Republic of China was under the control of a totalitarian government for a long period. Most government information was classified as state secrets or internal documents. Since 1978 — when China began its economic reform and opened its door to the outside world — the communist party has gradually lost its control on government information. Yet China remains a country where the government controls what the public sees and hears. As a result, a majority of government information is still not publicly available. Fortunately, due to the development of the Internet, more Chinese government information can be obtained. The Internet Chinese Legal Research Center at Washington University in St. Louis, <http://law.wustl.edu/Chinalaw>, contains a list of popular Internet portals to Web sites providing Chinese government information

When searching for Chinese documents, the People's Republic of China has neither a central government clearinghouse like the United States Government Printing Office for disseminating government information nor a depository library system. The major publishing house for government information is the People's Publishing House. But almost every agency has its own publishing house, such as Law Press under the Ministry of Justice and People's Court Press under the Supreme People's Court. Chinese government information is usually disseminated vertically from the central government to local governments and within the agency system.

Most documents that circulate among Chinese government agencies are classified as internal or marked "circulated internally only." However many documents are often cited by other publications and available to the public. Therefore determining whether a document is internal or not can become difficult. A researcher should be cautious when collecting government documents in China because he or she could be subject to criminal investigation.

When China joined the World Trade Organization in the fall of 2001, the WTO required China to open up its government operations to its citizens and the world. China has begun to post information from its government agencies on the Web and

encourages them to communicate digitally and disseminate information via the Internet through its “e-governing” initiative. The Chinese government is disseminating significant documents, such as rules, regulations, orders, circulars and replies, to subordinates’ requests. Even though many of China’s documents are classified as “internal documents,” the Law and Regulation Databank collects and posts these materials on its Web site at <http://chinalawinfo.com>.

Despite loosening its grip on the dissemination of government information, the Chinese Communist Party still heavily controls almost all national and local newspapers. For example, unlike the *Federal Register* in the United States, the *Gazette of the Chinese State Council* is not very comprehensive and selectively publishes only some Chinese national rules, regulations and orders. Other major government publications include the gazettes of the National People’s Congress, the Supreme Court and the Supreme Procuratorate. These gazettes are distributed freely among government agencies only, but all are available for subscription. In addition, almost every functionary state department publishes two periodicals to disperse its departmental information: one circulated publicly and the other internally. For example, the Ministry of Justice publishes *Judicature Today* (*Dangdai Sifa Magazine*) for the public.

All provincial newspapers have been used to disseminate government information that the central and local governments want the public to be aware of in order to implement their agendas. Therefore the full text of Chinese laws, regulations and other government information is often published in these newspapers. Because the information is only available in print and not electronically, collecting these materials becomes cumbersome for libraries, which have to cut out the articles and then compile and house them.

With the e-governing initiative and economic globalization, more and more Chinese government information is becoming available on the Web. Official encouragement of free enterprise has stimulated some entrepreneurs to commercialize Chinese government information, breaking down state control over propaganda dissemination of information.

Researching á la France

In France, the government is promoting *better* knowledge of the law and *easier* access to public documents for the benefit of its citizens and worldwide legal specialists.

This year, the French Parliament adopted the *Bill on Information Society*. Because the French Republic has always deemed knowledge of the law as essential in the life of its citizens, the new law officially solidifies citizens’ rights to free and easy access to French government documents. “No one in France can claim ignorance of the law,” the *Bill on Information Society* states.

But the government’s encouragement of French citizens to become more knowledgeable about their government began a few years earlier. In 1997, then-Prime Minister Lionel Jospin allowed free access to French government documents. Previously, the only way to obtain government documents in France was through a Web site called Jurifrance, which charged about \$350 plus tax per document.

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Jospin’s decree was enhanced by current Prime Minister Jean-Pierre Raffarin. Raffarin signed a new law on Aug. 7 that allows public access to government information via the Internet. Now official documents of the French government and administration are available through many Web sites. The following four free Web sites are primary sources for French law: the prime minister database at <http://www.premierministre.gouv.fr>; Service Public, the portal of

French administration at <http://www.service-public.gouv.fr>; Vie Publique, the portal of French government documents; and Legifrance, the French government portal to the French law, at <http://www.legifrance.gouv.fr>.

Legifrance offers user-friendly access to French legislation, regulations and case law, directly or through links to other public Web sites, such as those of the Parliament, the Court of Appeal and the State Council. Legifrance’s translation of French law will help legal researchers access French government documents. Currently 30 French codes are available in English and Spanish; many other translations of codes and statutes will follow.

Another important development is the fee-based Jurifrance at <http://www.jurifrance.com>, a legal information system often used by legal professionals, such as prosecutors, judges, lawyers and law librarians. This database will be fully integrated into the Legifrance Web site, providing users with free access to all primary legal materials used in France.

Getting Down to Mexican Law

Mexico, like the United States, is a federal republic. Unlike the U.S. Government Printing Office, however, Mexico’s federal government has no central publisher or distributor of federal government information. Thus the task of tracking and acquiring publications from the Mexican government is very difficult because it is necessary to proceed from agency to agency, each of which has its own publications program.

On the other hand, the Mexican government is using the Web as a means of disseminating information. The Web portal of the government, Precisa, is at www.precisa.gob.mx. This June, Mexico signed into law the *Ley Federal de Transparencia y Acceso a la Información Pública Gubernamental* (*Federal Law of Transparency and Access to Public Government Information*) — analogous to the *Freedom of Information Act* in the United States, but, as implied by the phrase “public government information,” with a substantially more limited scope.

For legal information, the key source is the *Diario Oficial de la Federación*, the official government newspaper. All significant legislation and most administrative regulations must be published (continued on page 30)

in the *Diario Oficial* before they go into effect. But the *Diario Oficial* is purely chronological and not well indexed. So how does one research the current state of Mexican law?

There are three solutions. First, a searchable electronic version of the *Diario Oficial* is available for a hefty fee. (Go to www.gobernacion.gob.mx for free access to the 2001–2002 issues.) Second, stand-alone commercial editions of the most significant federal laws are available. Reliable commercial editions of legislation are published by Editorial Porrúa, www.porrua.com, the leading law publisher in Mexico. Last, the Web site of the Chamber of Deputies, www.cddhcu.gob.mx/leyinfo, offers free access to more than 220 current federal codes and laws, plus the constitution.

English translations of Mexican legislation are available — for a price — from the National Law Center for Inter-American Free Trade at www.natlaw.com. The best way to track translations, which are scattered through many sources, is through *Foreign Law: Current Sources of Codes and Basic Legislation in Jurisdictions of the World*, by Thomas H. Reynolds and Arturo Flores. The publication is also on the Internet at <http://www.foreignlawguide.com>.

Decisions of the appellate courts and, in particular, the Supreme Court, play an increasingly important role in the Mexican legal system. The one consistently published law reporter in Mexico is the *Semanario Judicial de la Federación*, which publishes the decisions of the Supreme Court (both *pleno*, “full court,” and *salas*, “chambers of the court”) and the circuit courts of appeal. The most important component of judicial decisions as a source of law in Mexico is the *tesis de jurisprudencia*, roughly translated as “holding with precedential effect.” The

Web site of the Supreme Court has a free database for the *jurisprudencia* at www.scjn.gob.mx.

Challenges, Cautions and Strategies

Researching legal materials and government documents in different countries, such as China, France and Mexico, each comes with specific challenges unique to each country. But there are some common strategies for foreign legal research that pertain to any country.

The first challenge in accessing legal materials of foreign jurisdictions is language. Topical looseleaf services in English, recent databases with English versions, or selected materials translated into English can help. Special software is needed to access foreign, non-Roman-script databases. For example, special software may be required to search and read Chinese databases. Another challenge is censorship: Governments do not disclose all primary materials.

Before researchers begin their search for documents of a foreign jurisdiction, they have to understand its legal system. The second step is to narrow the research question. What country’s law is needed? What is the specific subject area at issue?

Even researchers who can read the language of the jurisdiction must still identify the title of the required legal publication in the local vernacular. A legal foreign-language dictionary may be required to find the legal equivalents from one language to another. Use such guides to foreign jurisdictions as the Reynolds and Flores text mentioned earlier; indexes; and online guides, such as LLRX.com’s Foreign and Comparative Law, available at http://www.llrx.com/comparative_and_foreign_law.html.

Think topical when trying to find foreign laws in English. Remember that primary sources of a foreign jurisdiction will never be officially translated into English, just as U.S. statutes and cases will not be officially translated into other languages.

For those who do not know how to begin accessing foreign legal materials and do not have a citation to the foreign law he or she is researching, use secondary sources: commentaries, treatises, legal encyclopedias and articles.

Despite the language barriers and differences in legal systems that are inherent to foreign legal research, accessing government documents from around the world is more convenient and accessible now than even five years ago. The rise of the Internet has prompted nations to place their documents, policies and statutes in cyberspace for all to see. Once reserved for political insiders, these legal materials and government documents are now not only available to the masses but to legal information professionals too.

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