

Chapter 8

Legal Information

8.1 Legal Documents and Their Demanders

Carriers of legal information can be separated into three groups (Arewa, 2006, 801et seq.). Primary legal information comprises all documents of written law (laws, regulations) as well as all important judgments (cases from all instances). Secondary legal information comes about via expert commentaries as well as jurisprudential research results in expert magazines. As a lot of documents concerning primary and secondary legal information lie scattered around, tertiary legal information is used to uncover the connections between the documents. This regards both formal citations and “related” documents. Figure 8.1 summarizes our classification of digital legal information in a schema:

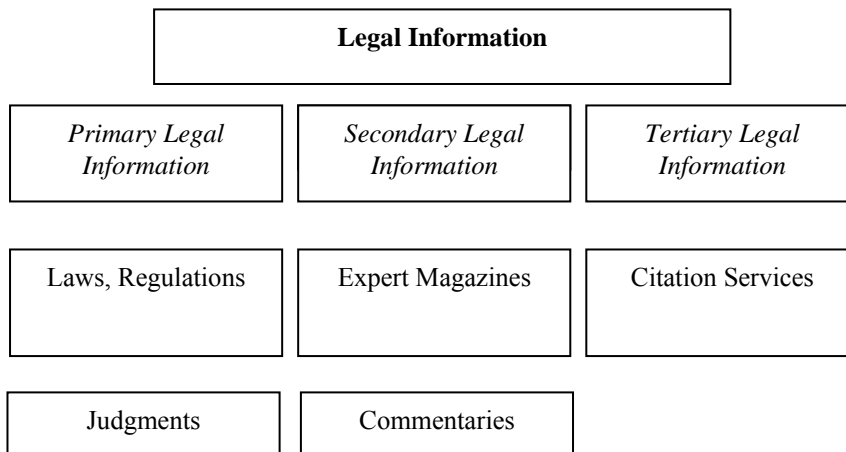


Figure 8.1: Classification of Digital Goods for Legal Information.

Customers of legal information are mainly to be found in three areas:

- Commercial enterprises:
 - offices and
 - legal departments of companies,
- public institutions:
 - courts of law and
 - public administration,
- institutes of higher education (jurisprudential faculties, in the U.S.A.: “law schools”).

Sometimes, private individuals might also be allowed to research legal information.

Information producers (and providers on information markets) are “those responsible” for the information–legislative (publishers of legal texts) and courts (publishers of verdicts) as well as publishing houses (secondary and tertiary information). An important role is played by information providers that specialize in law (e.g. Juris in Germany or Westlaw and LexisNexis in the U.S.A.) as well as providers of Web search engines (Google Scholar), as they bundle the single pieces of information. Customers have access both to the producers’ data (if separately for every information pool) as well as to the aggregated and interlinked information from legal hosts and search engines, respectively.

The law is always aligned nationally (Christiansen, 2002); even within the European Union, one cannot (yet) assume any “harmonized” law of all member states (Ritaine, 2006). In contrast to STM and economic information, a provider of legal information must always cater to exactly one national market—in its official language. Yet, as a consequence of globalization, users are often required to be familiar with several national legal systems (Germain, 2007). If a customer is interested in different legal systems (let us say: in German and American law), he is required to address different legal information products (in our example, he might consult the Wolters Kluwer product Jurion for German and Lexis.com for American legal information; Stock & Stock, 2005). National law is joined by “transnational” law, such as universal human rights or international trade law.

8.2 Primary Legal Information I: Legal Norms

Laws and regulations for German law exist on three levels:

- legal norms of the European Union,
- Federal Law,
- laws of the 16 states.

Figure 8.2 shows an excerpt from a legal norm of the state Northrhine-Westphalia, as it was published in the law and ordinance gazette. In this decree, a pre-existing legal norm is modified. Occasionally, there are “article laws”, which contain changes to several norms at the same time. This makes it difficult for the user to compile the full text of a law. **Consolidated laws** provide relief; here, the changes to the legal texts are included. Kuntz (2006b, 1) points out:

These consolidated collections of laws have no official character; only the legal text published in the gazettes is official.

Gesetz und Verordnungsblatt (GV. NRW.)
Ausgabe 2010 Nr.1 Seite 1 bis 14

Dritte Verordnung zur Änderung der Studienbeitrags- und Hochschulabgabenverordnung

Normstruktur:

Normkopf
Norm
Normfuß

221

**Dritte Verordnung zur Änderung
der Studienbeitrags- und Hochschulabgabenverordnung**

Vom 14. Dezember 2009

Auf Grund der §§ 6 Satz 2 und 3, 19 Absatz 1, 2 und 4 des Studienbeitrags- und Hochschulabgabengesetzes vom 21. März 2006 (GV. NRW.S.119), zuletzt geändert durch Artikel 3 des Gesetzes vom 13. März 2008(GV. NRW. S.195), § 29 Absatz 4 Satz 3, 4 und 6 des Hochschulgesetzes vom 31. Oktober 2006(GV. NRW. S.474), zuletzt geändert durch Artikel 2 des Gesetzes vom 28. Oktober 2009(GV. NRW. S.516), sowie § 26 Absatz 4 Satz 3 und 4 des Kunsthochschulgesetzes vom 13. März 2008(GV. NRW. S. 195), zuletzt geändert durch Artikel 14 des Gesetzes vom 21. April 2009 (GV. NRW. S. 224), wird im Einvernehmen mit dem Finanzministerium und mit Zustimmung des Ausschusses für Innovation, Wissenschaft, Forschung und Technologie des Landtags verordnet:

Artikel 1

Die Studienbeitrags- und Hochschulabgabenverordnung vom 6. April 2006(GV. NRW. S. 157), zuletzt geändert durch Verordnung vom 17. November 2007(GV. NRW. S. 600), wird wie folgt geändert:

Figure 8.2: Full Texts of State Laws for Northrhine-Westphalia. Source: Ministry of the Interior of the State Northrhine-Westphalia; recht.nrw.de.

Consolidated laws are worked out by publishers as well as legislative institutions. The “laws on the internet” provided by Juris, or the legal texts edited by the publishing house of C.H. Beck, are such consolidated versions (Kuntz, 2006c). If a user requires the current status of a legal norm, the consolidated version will help him; if an earlier version is required, though (because the respective case goes back a while, for instance), the changes must be traced back.

In Germany, full texts of legal norms are offered on the information market by Juris, Beck-online, Jurion (Stock & Stock, 2005) as well as by the legislative institutions (the latter as Open Accessory publications) (Kremer, 2004; Münch & Prüller, 2004; Schulz & Klugmann, 2005, 2006). In the United States, LexisNexis (as a workspace of Reed Elsevier) and Westlaw (belonging to the Thomson Reuters corporation) dominate in the commercial arena (Arewa, 2006).

Google scholar crow indians Search

View this case How cited **Crow Tribe of Indians v. Deernose, 487 P. 2d 1133 - Mont: Supreme Court 1971**

487 P.2d 1133 (1971)

The CROW TRIBE OF INDIANS, Plaintiff and Respondent,
v.
Donald DEERNOSE and Agnes Deernose, husband and wife,
Defendants and Appellants.

No. 11999.

Supreme Court of Montana.

Submitted June 10, 1971.
 Decided August 10, 1971.

Douglas Freeman, argued, Hardin, Redle, Yonkee & Arney, Sheridan, Wyoming, for defendants and appellants. Rex O. Arney argued, Sheridan, Wyoming.

Stanton, Hovland & Torske, Hardin, for plaintiff and respondent. James Torske argued, Hardin, Montana.

HASWELL, Justice.

The district court of Big Horn County entered a real estate mortgage foreclosure decree on Indian trust lands on the Crow Reservation in favor of the Crow Tribe as mortgagee and against Donald Deernose and his wife, as mortgagors. From an order denying their motion to vacate this judgment, the mortgagors appeal.

Figure 8.3: Full Text of a Verdict in Montana. Source: Google Scholar.

8.3 Primary Legal Information II: Cases / Decisions

Depending on the dominant legal system, what is currently considered to be “good law” is gleaned primarily from either the legal norms (as in Germany) or jurisdiction (as in the United States). Of course, leading decisions (in Germany) are also relevant, as are laws (in the U.S.A.).

Verdicts are published both in their **full text** (as seen in Figure 8.3) as well as, occasionally in an abridged version (e.g. reduced to the principle). Courts publish **press reports** (Figure 8.4), which may also be of importance to the researcher. While the text of the verdict—as is common in Germany—the document has been rendered anonymous (i.e. the name “Verena Becker” does not appear and, as a consequence, is not searchable), the press agency has distanced itself from the anonymization. In the U.S.A., anonymization is a foreign concept, and thus every name can be researched.

The **publication density**, the degree of coverage of all verdicts contained in a database relative to all decisions worthy of documentation, heavily depends upon the respective instance. The definition of “worthiness of documentation” (or “worthiness of publication”, respectively) is the crucial factor for its decision (Walker, 1998, 2):

Deemed worthy of publication is ... any court decision that takes a position in a question of law (legislative decision) and any decision that makes a statement that goes beyond the immediate proceedings, thus being of interest to, and indeed understandable for, those involved.

The Federal Courts' publication density is much higher than that of the courts of instance, where a maximum of 5% of all settled proceedings are published (Kuntz, 2006a, 43). But even the verdicts of the upper Federal Courts, as well as those of the Federal Constitutional Court, are not always wholly documented.

Bundesgerichtshof

Mitteilung der Pressestelle

Nr. 261/2009

Verena Becker der Beihilfe zum Mord an Generalbundesanwalt Buback und seinen Begleitern dringend verdächtig - Haftbefehl jedoch aufgehoben

Das ehemalige "RAF"-Mitglied Verena Becker befindet sich seit August 2009 wegen des Vorwurfs der Mittäterschaft an der Ermordung von Generalbundesanwalt Buback und seinen Begleitern in Untersuchungshaft. Auf ihre Beschwerde hat der 3. Strafsenat (Staatschutzsenat) des Bundesgerichtshofs den Haftbefehl aufgehoben. Er hält Verena Becker zwar der Beihilfe zu diesem Anschlag für dringend verdächtig, sieht jedoch keinen für die Anordnung von Untersuchungshaft zwingend erforderlichen Haftgrund.

Am 7. April 1977 lauerten zwei Mitglieder der "RAF" dem Dienstwagen des Generalbundesanwalts Buback auf der Fahrt zum Dienstgebäude der Bundesanwaltschaft auf. Sie verwendeten ein Motorrad, das von dem damaligen "RAF"-Mitglied Sonnenberg angemietet worden war. Als das Dienstfahrzeug kurz nach 9.00 Uhr an einer Verkehrsampel anhalten musste, fuhren die Täter rechts neben den PKW. Die Person auf dem Soziussitz gab mit einem Selbstladegewehr eine Serie von mindestens 15 Schüssen durch die Seitenfenster auf die drei Insassen des Dienstfahrzeugs ab. Generalbundesanwalt Buback und sein Fahrer Göbel verstarben noch am Tatort. Erster Justizhauptwachmeister Wurster erlag am 13. April 1977 den schweren Schussverletzungen, die er bei dem Attentat erlitten hatte.

Figure 8.4: Report from the Press Office of the Federal Court of Justice.

Leading decisions from Germany are distributed commercially by Juris, Beck-online and Wolters Kluwer (Jurion). They are joined by the (free) publications of the individual courts. In the area of verdicts, too, the commercial market for legal information in the U.S.A. is dominated by the duopoly (Arewa, 2006, 821) LexisNexis and Westlaw. However, their commercial offers are under massive attack from Google (with its product Google Scholar), which offers a free search interface. All U.S. providers dispose of the verdicts from the District and Appellate Courts as well as the Supreme Court.

8.4 Secondary Legal Information: Expert Annotations and Specialist Literature

The offer of secondary legal information is the domain of specialist publishers. These offer both entire books, as e-books (Figure 8.5), and contributions to specialist magazines digitally. The German market is dominated by the product Beck-online. While LexisNexis and Westlaw differ only marginally in their offer of legal norms and verdicts, there are—particularly due to the different affiliations to

publishers—notable differences in specialist literature. Thus the documents of the Legal Library of Martindale-Hubbell (an area of the LexisNexis Group of Reed Elsevier) are available digitally with LexisNexis, but not with its competitor Westlaw. It must be noted, in addition, that the full texts of jurisprudential specialist magazines are also available with other (non-legal) STM information providers (such as EBSCO) (Koulikov, 2010). The subject area of secondary legal information does not restrict itself to “pertinent” legal literature. In the end, attorneys and courts cite all types of literature—up to and including Wikipedia (Zosel, 2009).



- ☐ Sicherheiten für die Bauvertragsparteien
 - ☐ Einführungstext
 - ☐ 1. Vorwort des Herausgebers
 - ☐ 2. Vorwort des Autors
 - ☐ I. Einleitung
 - ☐ II. Der richtige Umgang mit Bürgschaften
 - ☐ III. Chancen und Risiken des § 648a BGB
 - ☐ IV. Forderungsabtretungen
 - ☐ V. Bauhandwerkersicherungshypothek gemäß § 648 BGB
 - ☐ VI. Durchgriffshaftung zugunsten des Auftragnehmers gegen Organe des vermögenslosen Auftraggebers

IBR Reihe
 Sicherheiten für die Bauvertragsparteien
 von
Rechtsanwalt Dr. Claus Schmitz, München
 letzte Aktualisierung: 09.06.2009
id Verlags GmbH
Mannheim

Figure 8.5: E-Book in Beck-Online. Source: Beck-Online.

8.5 Tertiary Legal Information: Citations and Other References

Legal Norms, court decisions, annotations and specialist articles are interlinked via formal citations. In products such as Shepard’s (in LexisNexis) or KeyCite (in Westlaw), such citation connections are registered and evaluated intellectually. In Google Scholar, they are processed via automatic citation indexing, where there can obviously be no evaluation (Figure 8.6). Both are variants of citation indexing. The assessment of verdicts does not stay the same, after all, but is subject to changes over time. This change of perspectives and evaluations must be documented (Spriggs & Hansford, 2000; Taylor, 2000).

View this case	How cited	Crow Tribe of Indians v. Deernose, 487 P. 2d 1133 - Mont: Supreme Court 1971
How this document has been cited		Cited by
<p>44 —the court found a state court lacked jurisdiction over a real estate foreclosure action concerning trust land located on the reservation. ** - in Montana Tribal Courts: Influencing the Development of Contemporary Indian Law and 4 similar citations</p> <p>44 —state courts would not be available for the foreclosure of mortgages involving Indian land (in this case, curiously, involving a foreclosure by the tribe against one of its members). ** - in Law and the American Indian and 2 similar citations</p> <p>44 This view is also held by a number of state courts which have denied state jurisdiction over reservation Indians on the ground that the state had not accepted Congress' invitation to take jurisdiction under Public Law 280. ** - in Wildcat v. Smith, 1984 and one similar citation</p> <p>44 These enactments by Congress are certainly illustrative of the detailed regulatory standards which Congress has imposed on any extension of state jurisdiction, whether civil or criminal, to actions in which Indians are parties arising in Indian country. ** - in State Securities, Inc. v. Anderson, 1973</p> <p>44 As our discussion above indicates state authority within the exterior boundaries of an Indian reservation is limited. ** - in LaRoque v. State, 1978</p> <p>44 Justices White and Stewart, in dissent, argued that Congress could not have intended to prevent the tribes from authorizing state court concurrent jurisdiction. ** - in Sovereignty, Citizenship and the Indian</p> <p>44 "... Provided Further, That until the issuance of fee-simple patent allottees to whom trust patents all shall be issued shall be subject to the exclusive jurisdiction of the United States..." ** - in The Native American Credit Problem</p> <p>44 "It is abundantly clear that state court jurisdiction in Indian affairs on reservations does not exist in the absence of an express statutory grant of such jurisdiction by Congress together with strict compliance with the provisions of such statutory grant. Illustrative of this principle is the 1971 case Kennerly ** - in Blackwolf v. DISTRICT COURT OF SIXTEENTH JUD. DIST. 1972</p>		<p>ICRANOW Handbook of federal Indian law: with reference tables and index FS Cohen - 1942</p> <p>Public Law 280: The Limits of State Jurisdiction Over Reservation Indians CE Goldberg - UCLA L. Rev. 1974</p> <p>ICRANOW Law and the American Indian ME Price - 1973</p> <p>Judicial Enforcement of the Federal Restraints on Alienation of Indian Land... RH Clinton... - Me. L. Rev., 1979</p> <p>State ex rel. Iron Bear v. District Court 512 P. 2d 1292 - Mont: Supreme Court 1973</p> <p>all 43 citing documents »</p>
		Related documents
		<p>Blackwolf v. DISTRICT COURT OF SIXTEENTH JUD. DIST. 493 P. 2d 1293 - Mont: Supreme Court 1972</p> <p>State ex rel. Kennerly v. District Court 466 P. 2d 85 - Mont: Supreme Court 1970</p> <p>Martin v. Denver Juvenile Court 493 P. 2d 1093 - Colo: Supreme Court 1972</p> <p>Ghahate v. Bureau of Revenue 451 P. 2d 1002 - NM: Court of Appeals 1969</p> <p>State ex rel. Iron Bear v. District Court 512 P. 2d 1292 - Mont: Supreme Court 1973</p>

Figure 8.6: Citations of Verdicts in Google Scholar. Source: Google Scholar.

KeyCites (Figure 8.7) distinguishes between the “direct” history (within the proper channel of one and the same case) and its “indirect” version (citation of the case outside proper channels). The number of stars (at most four) shows how intensively a verdict has been discussed. The user here sees at first glance—just as in the competing product Shepard’s (Stock & Stock, 2008, 323-325)—whether a verdict still holds: a red flag signals that the decision has since been reversed, and a yellow flag shows that there is at least the danger of the decision no longer representing “good law”.

Google’s automatic indexing recognizes verdicts from their typical form of citation and lists both the citing sources (Figure 8.6, top right) and the text environment of the footnote (left). An automatic indexing of the document, and the use of important search arguments found therein, lead to a research for “related” documents. One such service is offered by Google Scholar (Figure 8.6, bottom right) and LexisNexis (“More like this!”; Stock, 2007, 485-487).

A quality criterion of legal information products is the linking to all documents interlinked via citations. If, for instance, a court decision cites a legal norm, there will be a link to the text of the norm (and what’s more, precisely to the paragraph, passage etc.)—and vice versa. If a specialist article links to a verdict, there will be a link to the full text of that decision.

Negative Indirect History (U.S.A.)*Overruled by*

- ▶ 2 Hapka v. Paquin Farms, 458 N.W.2d 683, 59 USLW 2113, 12 UCC Rep.Serv.2d 60, Prod.Liab.Rep. (CCH) P 12,545 (Minn. Aug 03, 1990) (NO. C4-88-410) ★ HN: 2 (N.W.2d)

Declined to Follow by

- ▶ 3 Held v. Mitsubishi Aircraft Intern., Inc., 672 F.Supp. 369, 24 Fed. R. Evid. Serv. 103, Prod.Liab.Rep. (CCH) P 11,736 (D.Minn. Aug 14, 1987) (NO. CIV. 4-85-1148) ★ ★ ★ HN: 1,2 (N.W.2d)

Overruling Recognized by

- ▶ 4 Marvin Lumber and Cedar Co. v. PPG Industries, Inc., 1998 WL 1056973 (D.Minn. Aug 06, 1998) (NO. CIV.4-95-739 ADM/RLE) ★ ★ ★ HN: 1,2 (N.W.2d)

Figure 8.7: KeyCites in Westlaw. Source: Westlaw (Note: The Upper Two Flags Are Yellow in the Original, the Bottom One Red).

8.6 Providers' Pricing Models

We can find three pricing models in the area of digital legal information: Open Access, subscription and a special provision for law schools. Free access to information is granted by public institutions (legislative, judiciary), but certain legal specialist magazines come with open access, such as the *International Journal of Legal Information* via Cornell University's Law Library (Arewa, 2006, 837) or—in Germany—*JurPC*. Another aggregation of open access materials, also free of charge, is offered (but only for the U.S. market at this moment) by search tools like Google Scholar.

Commercial providers of legal information like Juris, LexisNexis and Westlaw prefer subscriptions. Single sales of documents via pay-as-you-go is rejected as a business model; demand on the side of the end users is apparently too low for this model. The prices are negotiated in various differentiated ways. Generally, there are differences between economic enterprises and institutions as customers. A subscription of Juris costs attorneys €1,200 per user and per year (“Juris Standard”) and municipalities (in the version “Juris Kommune Premium”) €850, also per user per year.

The information providers LexisNexis and Westlaw, operating in America, grant institutes of higher education large discounts. Arewa (2006, 829) describes this subsidization of law schools as beneficial for all parties involved:

This differential pricing structure means that professors and students have relatively low cost access to the legal materials on Lexis and Westlaw. Commercial users, who pay high prices for Lexis and Westlaw access, subsidize this relatively open access within the law

schools. The benefits of this market and pricing structure flow to all parties involved: law students become trained in the use of Lexis and Westlaw and arrive at their post-law school employment at least conversant with using the Lexis and Westlaw databases. Although law firms pay a high cost, they benefit by getting new employees who are already trained in the use of Lexis and Westlaw. Lexis and Westlaw, which invest significant amounts of resources in the legal market, benefit by getting early access to future generations of potential Lexis and Westlaw users.

8.7 Conclusion

Only available in the printed version.
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8.8 Bibliography

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