

Library News	1
New Library Staff	1
From the Assistant Director's Chair	2
HIP: The Law Library Catalog	2
Database Review	3
Do You Know?	4
Book Review	4
Do You Know Answers	8
Contributors	8

Library News

New Library Staff

Jeffrey E. Collins is one of our newest Library Assistants. He received a B.A. and an M.A. in History from Northern Arizona University and worked as a Police Dispatcher during his time at NAU. Jeff is now working toward a Master's degree in Information Resources and Library Science at the University of Arizona. Jeff is thrilled to be working at the Law Library and learning more about legal reference. When he isn't studying, he can be found playing video games, reading, or spending time with his wife, Megan.

Jennifer S. Murray began as the new Assistant Director of in October of last year. In that position, she is responsible for the daily administration of the Library. Jennifer received her Juris Doctor from the Arizona State University College of Law. After a year spent practicing as a domestic relations lawyer in Phoenix, Jennifer found her true calling and received her Masters in Library Science from the University of Arizona. Prior to joining the Judicial Branch, she worked as a librarian for Greenberg Traurig, Arizona State University's Ross-Blakley Law Library, and the University of Southern California Law Library.

Susan Regan began as a Research Attorney with the Law Library January 29, 2007. She graduated from Heidelberg College in Ohio with a Bachelor of Science degree in Biology. She then attended the University of Alaska, Fairbanks, where she earned a Masters of Science degree in Natural Resource Management and Land Planning. After 7 years of working throughout Alaska as a Planning Director and Land Manager, she attended the Thomas M. Cooley Law School in Michigan. While in Law School, she became editor of the Environmental Law Review, winner of the Scholarship for National Environmental Moot Court, and received various awards for legal research, writing, advocacy and health law. After graduating, Susan served as a member of the Legal Compliance Team, a division of the Group Legal Department at The Standard, a Portland Oregon-based insurance company before moving to Arizona. From 2001 to 2003, Susan served as General Counsel with National Scientific Corporation, and from 2003 to 2006, as Director of Investor Relations there. She lives with her husband, two sons, and a Jack Russell Terrier in Scottsdale.

Lori Rader is our newest Reference Librarian. She previously worked as a Librarian at the Omaha Public Library (OPL) in Omaha, Nebraska. Her responsibilities at OPL included database collection management, interlibrary loan, and reference. Lori has also worked as a Reference Librarian at public libraries in Rapid City, South Dakota and Wilmington, Delaware. Born and raised in Hastings, Nebraska, Lori received her M.L.S. from Texas Woman's University in Denton, Texas. She is looking forward to living and working in the warm Phoenix climate.

Aliza Rain started working as a Law Library Aide in January of this year. Born and raised in Phoenix, she graduated from Grand Canyon

University with a Bachelor's degree in Fine Art. Aliza has over sixteen years experience at numerous law and accounting firms through Professional Library Services. She likes to read, loves art and music and lives in Tonopah with six dogs and three cats.

From the Assistant Director's Chair

In Diary of a Young Girl, Anne Frank wrote "[h]ow wonderful it is that nobody need wait a single moment before starting to improve the world." And the Library doesn't need to wait either! We have consistently provided a high level of service to the judges, commissioners and judicial staff of the Superior Court in Maricopa County as well as attorneys and members of the public. But the time has come for us to begin an initiative to expand service to our community.

Perhaps your first thought is how can we improve something that's already great? And we absolutely agree with you. It's going to be a challenge. But we already have some ideas as to how we can make a difference.

One idea is to increase community outreach. This outreach can take the form of increased research instruction both within the Judicial Branch and within the community at large. It can also be an increase in publicity within the community to improve awareness regarding the services and resources offered by the Library. So expect to see more marketing and public relations as we reach out to as many patrons as possible to ensure everyone knows what we have to offer.

Another idea is to incorporate innovative technologies into the Library's services. With that in mind, be on the look out for new features and services on our Library Web site. Our goal is to expand the site to provide 24/7 service and content. Some of the services the Library is considering to achieve this goal are enabling reference via chat or instant message and using technology to make our website a resource for current news information as well as research.

These changes will not occur overnight. But you will see the plan come together gradually over the next year. We know you will like what you see, and we are excited to expand on our already great service. And we hope that with

these changes, like Anne Frank suggested, we will do our part to start improving the world.

If you have any ideas or suggestions on how the Library can better serve you, please email them to murrayj006@scll.maricopa.gov or submit them in person using the Library's Suggestion Box on the second floor of the Library. The Law Library also has an online suggestion box on both our Internet (www.superiorcourt.maricopa.gov) and Intranet (<http://courts.maricopa.gov/lawlibrary/LawLibraryWeb.asp>) pages.

HIP: The Law Library Catalog

The Horizon Information Portal, or HIP as it's known, is your window to the Law Library resources. HIP is where you can find books, link to web sites, create and email book lists, and log on to research databases. It's also where you can renew books, check on items you have reserved, change your email address.

Logging In

To log in, click on the My Account tab or on the Login link in the upper right-hand corner. Enter the barcode number from your library card, either the whole number or just the digits after the string of zeroes. Click the Account Login button, or press Enter. If you get a red error message, your account has been locked. This may be the result of an expired account, a lost book, or fines amounting to more than \$25. Call the desk at 602-506-3461, or come in to clear up the problem.

If you're outside of the library or court complex and wish to use an online database, HIP will present you with a separate login page. For this login, you need to enter the whole barcode. The same error messages regarding your account apply to this login process.

Account Overview

The first screen you see after logging in to HIP will be the Account Overview, which shows a review of your current status: how many books you have out or on hold, what fines, blocks, or messages are on your account, and what information is on your borrower record. Click the Profile link to change your email address, or request a change to name, address, or phone number.

Renewing Books

Renewing books on HIP is simple. Log in, go to My Account, and then click Checked Out. Check the box next to the item you wish to renew, and then click the Renew button. The due date will change to show a one week extension. Remember: you get only one renewal. If the item has already been renewed, you won't get another update.

My List

As you search the catalog, you can create and save book lists. Build your lists by clicking the button labeled Add to My List on a search result screen or a full record, and watch the My List link in the right-hand corner. The number will change to show how many books are on the list. Click the link to open the list. Author, title, publication, and call number information are entered for each item you selected. From the My List page you can send yourself the book list by email, create new lists, and delete entries you no longer need. Lists are limited to twenty items, and you may create as many as twenty lists. If you log in, your lists will be saved for ninety days. Without a log in, lists will be deleted when you end your session by closing your browser or leaving the catalog.

Help Link

Help screens are available by clicking the button in the upper right-hand corner. In addition, if you have difficulty trying to log in or a problem with searching, click on the link at the bottom of each page, and send an email to webservices@scll.maricopa.gov. Comments and suggestions on the catalog and its functions are appreciated. Even complaints are welcome, so speak up and help us get better.

Database Review

USA.gov – The U.S. Government's Official Web Portal
<http://www.USA.gov/>

The government has a vast amount of resources available to the public, but the government's complex structure can make finding these resources difficult. Perhaps you have a topic in mind but you aren't sure if it is a federal or a state issue. Or you might know the agency that maintains the information, but the agency's

website is difficult to navigate. When looking for information provided by the government, the best place to start your research is USA.gov, formerly known as USA.gov.

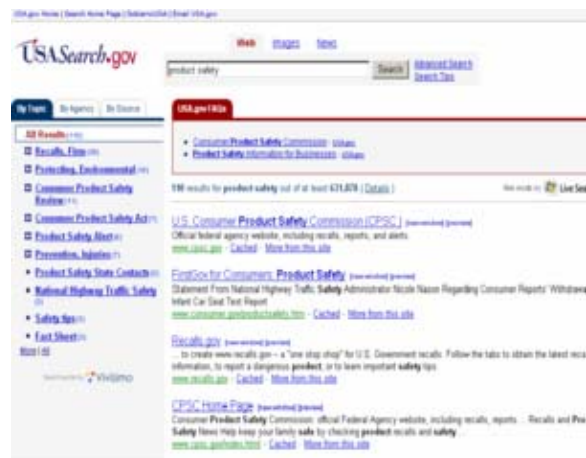


The USA.gov website acts as a portal, which means that it provides access to web content created and maintained by other entities. The website is well organized and provides several ways for users to find the information they are looking for. It is organized by five user types known as customer gateways, and are labeled: "for Citizens," "for Businesses and Nonprofits," "for Federal Employees," and "Government-to-Government," and "for Visitors to the U.S." Within each customer gateway, users can find links to information by organization or by topic; reference materials, such as statistics and laws; news and features; and online services.

Another way to find information is through the *Site Index*, which is similar to an index found in the back of a book. Users can scroll through or jump to topics in the alphabetical list. While many of the links bring users to a topical page within USA.gov, many of the links connect directly to the information source. For those who know exactly what they want, and have a good idea of where to find the link alphabetically, this is the fastest route.

Finally, for users who aren't sure where to start, USA.gov offers a way to search by keyword. Users can enter their keyword into the search box found on the homepage at the top right of the screen, or they can use the dedicated search page at <http://www.USAsearch.gov/>. An *Advanced Search* option is also available for users who prefer to have more control over their search terms.

After entering a search terms, users are presented with a list of results in order of relevancy. Within this list, users have the option of linking to the resulting website in a new window or previewing it within the results list. Users can also find more results within an organization's website. The search results page also offers a way to browse the results by topic, agency, or source. Using the search option also provides an additional benefit to users by notifying them if quick links are available to forms, pod casts, frequently asked questions, and more on their search topic.



To assist Spanish speaking users, a Spanish version of the website is available. The organization of the Spanish version of the website is very similar to the English version and includes a Site Index and a search feature. In addition, the Advanced Search screen, in both the English and Spanish versions, offers a way to limit search results to English and Spanish language websites.

Do You Know?

1. Where was the first airport in Phoenix?
2. In 1886, Phoenix legislators foisted the University of Arizona off on Tucson, preferring what institution instead?
3. What famous outlaw is buried in Cochise County, alongside one of Arizona's several turkey creeks?
4. Where was the first permanent U.S. military post established in Arizona in 1851?
5. Where was Arizona's capital city between 1867 and 1877?

Book Review

*The International Court of Justice (World Court): A 60th Birthday**

Judge Gottsfield's review was originally published in *New York International Law Chapter News*, published by the New York State Bar Association, in Volume 11, No. 1 (Spring 2006) at 8-12.

On April 18, 2006 the International Court of Justice, also known as the World Court, celebrated its 60th year of operation. On the same day of its establishment, April 18, 1964, the League of Nations voted itself and the Permanent Court of International Justice, the predecessor to the World Court, out of existence. The Court is physically situated at The Hague, The Netherlands, in a building aptly entitled The Peace Palace.

Professor and diplomat Shabtai Rosenne is the acknowledged foremost scholar of the World Court. Much of the material for this article is taken from the latest edition of his work, revised and updated by Professor Terry D. Gill, known as *Rosenne's The World Court: What It Is and How It Works*.

The World Court is the principal judicial organ of the United Nations and all members of that body are ipso facto parties to it which totals 191 nations, but non-member nations may also bring cases to the Court. Jurisdiction may be conferred on the Court by specific agreement of two or more States, by unilateral declaration of a State when it becomes a member of the United Nations (called "compulsory jurisdiction" but really based on voluntary acceptance) and a treaty provision requiring referrals to the World Court. A State may refuse to take part in World Court proceedings (called "non-appearance") or can withdraw from a case before the final decision has been given (as the United States did in the hereafter discussed Nicaragua case).

* Robert L. Gottsfield, Superior Court, Maricopa County. Phoenix, Arizona. Member of the American Bar Association, Maricopa County and New York State Bar Associations.

There is no mechanism to force a State to acknowledge the competence of the Court, although under the United Nations Charter a State has an obligation to comply with World Court decisions. The only real sanction is the diplomatic pressure of non-binding resolutions of either the United Nations Security Council (assuming no veto) and the General Assembly. As seen in the Nicaragua case non-appearance or withdrawal of a State is not necessarily a bar to continuation of the proceedings before the World Court. There is no judgment by default however, and the Court must satisfy itself that it has jurisdiction and that the claim is "well founded in fact and law." Moreover in nearly all cases of non-appearance the unwilling State finds a way to make its views known to the Court in an attempt to avoid an unfavorable decision.

The United States on October 7, 1985 withdrew its 1946 acceptance of the compulsory jurisdiction of the World Court because of the Nicaragua case. Interestingly this hasn't stopped the appointment of a United States representative to the fifteen-member court since our nation's withdrawal from the Court and this country's judge served as President of the Court during the period 1997-2000. A significant portion of Rosenne's is devoted to this case which the author expressly finds was a miscarriage of justice with respect to the United States and an unfortunate trigger causing this country to opt out of the court's jurisdiction.

Nicaragua Case

This case was before the Court from 1984 until 1991 and Rosenne uses it as a test case because "it raised nearly every problem encountered in international litigation" and is thus "one of the most significant cases" to come before the Court. It dealt with prohibitions on the use of force (as found in the United Nations Charter and international law in general); the role of law in instances where force is used; the relationship between the Court and the Security Council; as well as the issue of compulsory jurisdiction and its validity in a politically charged case.

Although, as noted, the United States withdrew from the case and the jurisdiction of the Court in 1985, and has not accepted the compulsory jurisdiction of the Court to this date, this did not affect the jurisdiction of the Court which proceeds to hear the case. It is significant that Rosenne contends that revelations discovered

after the case was discontinued in 1991 "indicate that Nicaragua was misleading in its presentation of evidence and sworn statements relating to certain key factual aspects of the case". The United States "position on the facts regarding Nicaraguan involvement in El Salvador has since been vindicated," so that even the Contras apologized to the Secretary-General.

By way of brief background Nicaragua's application to the World Court, which instituted the proceedings, claimed that the United States was using military force against and intervening in Nicaragua's internal affairs "in violation of Nicaragua's sovereignty, territorial integrity and political independence and of the most fundamental and universally accepted principles of international law". The Sandinista National Liberation Front, a revolutionary government, came to power in 1979 with backing of the United States which had long exercised influence in the area. When there appeared to be undemocratic policies internally and Sandinista support for insurgent movements in neighboring Central American States, especially in El Salvador, the United States in 1981 cancelled its aid to Nicaragua and began covertly supporting Nicaraguan opponents of the Sandinistas, called Contras (for counter-revolutionary). The purpose at first was to stop the flow of material from Nicaragua to the insurgents in El Salvador and to get the Sandinistas to change their domestic and foreign policies but it eventually turned into an attempt to overthrow the Sandinistas. By filing in the World Court, Nicaragua was seeking a cease and desist order against the United States to stop aid to the Contras as well as military and paramilitary activity allegedly by the CIA against Nicaragua.

Beginning in 1982, Congress enacted a number of statutory restraints on the Reagan administration's assistance to the Contras. In 1984 Congress, realizing its other measures had proven insufficient, adopted strict language in the Boland Amendment prohibiting all executive assistance of any kind to support the Contras. Unfortunately officials in the Reagan administration continued to solicit funds from private citizens and foreign countries, such as Saudi Arabia, to carry on its activities. This flouting of the Boland Amendment led to the Iran-Contra Affair [also known as Irangate, as well as the arms-for-hostages deal] and to the indictments and trials of a number of Reagan administration officials.

On June 27, 1986 the World Court ruled in favor of Nicaragua and ordered payment of restitution to be assessed in the future because of United States' involvement in Nicaraguan affairs. Nicaragua subsequently requested the staggering sum of \$11,216,000,000.00, the largest amount ever sought in a single international claim. The United States refused to pay any restitution and claimed the Court was not competent to try the case, inter alia, because of the Schultz letter of April 6, 1984 which purported to modify the 1946 United States' acceptance of World Court jurisdiction by excluding "disputes with any Central American State or arising out of or related to events in Central America."

Subsequently the United States vetoed a United Nations Security Council Resolution calling on all states to obey international law. The United Nations General Assembly also passed a resolution to pressure the United States to obey the judgment of the World Court and any fine to be assessed. Eventually the Sandinistas lost power in February 1990 and the World Court case terminated after seven years before the Court. The compensation phase of the Nicaragua case never led to a decision.

World Court Potpourri Judges

As noted fifteen judges from various countries try each case. The President of the Court may not be a national of any party but other judges can be. Various phases of one case (such as the issues of jurisdiction, admissibility of evidence, merits and sanctions phases) may be tried by a different fifteen-member panel because of the length of time required by most cases concerning international disputes.

Language

The official languages of the Court are English and French, although languages other than those may be authorized as long as interpreters of one of the official languages are provided.

Costs

The rule concerning costs of the proceedings is each party bears its own, which is normal in international litigation.

The Agent

The person entrusted with the formal representation of a party is called the Agent, who is assisted by counsel and advocates and other experts as needed. The Agent binds his country throughout the proceedings before the Court. The Agent is usually a country's ambassador to The Hague or other high-ranking member of the diplomatic service, although it may also be an attorney or a professor. If an Agent is not appointed by a government it is a signal that country does not intend to take part in the proceedings.

As noted, other than resolutions passed by the United Nations, as in the case of the Nicaragua case, which were unsuccessful in forcing the United States to obey the Court's judgment, there is no sanction available to force member states to join a case before The World Court or to enforce the Court's decisions.

Advisory Opinions

In addition to decisions in international law cases, the World Court issues advisory opinions, on all sorts of international legal issues but only at the request of a qualified international intergovernmental organ and not for an individual State or groups of States. The United Nations charter specifically gives the Security Council, the General Assembly, and any organs or Specialized Agencies of the same, the right to seek advisory opinions. Thus advisory opinions can be sought by these bodies even if the request is made over strong opposition so that requests can be made for advisory opinions concerning controversial and sensitive issues. The purpose of an advisory opinion, which is non-binding, is to enlighten the requesting body as to some issue of international law.

Appellate Jurisdiction

Interestingly the World Court has an appellate jurisdiction (called a "reference" rather than an "appeal") as where it acts on the basis of references from other international judicial or quasi-judicial bodies (such as the result of a decision rendered by a body under a treaty). This is not a de novo matter as the Court is called upon to determine whether the award complies with the rules of international law governing such awards.

Law Applied

As stated in Rosenne's, the international law applied by the Court consists of "(a) international conventions, whether general or particular, expressly recognized by the contesting States; (b) international custom, as evidence of a general practice recognized as law; (c) the general principles of law recognized by civilized nations; and (d) judicial decisions and the teachings of the most highly qualified publicists of the various nations as subsidiary means for the determination of the rules of law." For an international law tidbit the technical name of (c) above is non liquet (literally "it is not clear" a Roman law term) and permits the Court "to deal with entirely unprecedented situations and through its pronouncements to keep the law abreast of the constantly changing developments."

Precedents not binding

Interestingly for those of us versed in Anglo-American law which entails the binding force of judicial precedents, a World Court decision has no binding effect except between the parties and only with respect to that particular case.

Equity

Equitable principles may also be applied but only "when these are inherent in the rule of law itself".

Intervention

Third party intervention is allowed in contentious (as distinct from advisory) proceedings. A State whose interests may be affected by a decision in a case may request permission to intervene similar to the process we have in civil cases in Arizona. The decision is up to the Court. In certain limited instances there is intervention of right, with the Court examining whether it is properly brought or not. If intervention is granted the judgment is officially binding on the intervening State or States.

Judicial Review

There is no duty on any organ of the United Nations or any State or any person to seek the opinion of the World Court, even with reference to interpreting the United Nations Charter or Rules of Procedure. It has no general power of judicial review to determine the propriety of actions of any organ of the United Nations. It can only act in response to a contentious or

advisory case duly brought before it, although in the course of its decision on a case it may and does give interpretations of the Charter and of the compatibility of the actions of States with their obligations under the Charter.

Criminal cases

It is not a court which exercises jurisdiction in criminal cases, although cases do often involve allegations of wrongful behavior which will be judged by the Court under international laws governing the behavior of States.

World Court Wannabes

Finally you may ask how one becomes a counsel or advocate at the World Court. There are no formal qualifications for these positions. Usually experienced members of the international bar appear "drawn mainly from the legal professions of Belgium, France, Italy, Switzerland, the United Kingdom and the United States who have specialized in practice in the International Court."

Significance and Relevance

There are approximately two hundred and fifty substantive decisions, whether contentious cases or advisory opinions, over a period of 80 years given by the prior Permanent Court and the present World Court. The World Court has been presented with 126 of these. The usual annual filing of cases have numbered one to four cases on the average but in 1999, seventeen cases were filed and in 2002, forty cases were commenced, showing the increased workload of the Court. The increased filings have caused the Court to streamline and expedite the Court's procedures.

The cases brought before the Court range from routine disputes between States, such as the interpretation or application of central legal issues to major international disputes which at the time constituted threats to international peace such as the right of parties to fisheries, the law of the sea, territorial (called delimitation) cases, and disputes concerning continuing armed conflict as the dispute between Yugoslavia and the member states of the NATO alliance in relation to the Kosovo conflict. Rosenne's devotes 114 pages of the 241 page text to a discussion of the World Court's cases from 1946 on. It is necessary to bring this article to a close but a listing of some of the disputes include armed conflict in the Congo, whether a

foreign minister was immune from an international arrest warrant, border incidents between Pakistan and India, French nuclear tests in the South Pacific, fishing rights between Canada and Spain to an area 200 nautical miles from Canadian shores, advisory opinions concerning the legality of the threat or use of nuclear weapons, the conflict in Bosnia-Herzegovina, the crash of the American civil airliner over the Scottish village of Lockerbie, the East Timor case, incidents in the Arabian/Persian Gulf during the Iran/ Iraq war of 1980-1988, the legality of the Act of Congress of December 22, 1987 requiring the closing of all offices of the PLO in the United States, diplomatic hostages in Tehran, peace-keeping operations of the United Nations, and cases of military and civilian aircraft invading the airspace of sovereign nations including the shooting down of such aircraft. In some of these cases the Court proceeded to judgment, in others it determined there was no jurisdiction to proceed, and others were settled or dropped without a decision.

One of the most recent decisions of the World Court was issued on December 19, 2005 holding Uganda's interference in the Congo an unlawful military intervention and that it was responsible for the killing, torture and cruel treatment of civilians in the Congo in the late 1990s. The Court in its judgment, which is final, binding and without appeal, ordered that reparations were to be negotiated, failing which the Court would hold a further hearing.

According to Rosenne's in a majority of cases the work of the World Court had a beneficial diplomatic effect. For those interested in any of the substantive decisions they are available on the Court's website www.icj-cij.org.

Conclusion

Rosenne's discussion at the end of the book is an assessment of the World Court since 1946. The Court, when States agree that it is time to settle a dispute, can assist them and any regional organizations. On the other hand even if there is no agreement the Court's procedures can assist in channeling the tension and threats to peace created by a dispute into a peaceful and formal setting enabling diplomacy to do what it does best. From our short review on this 60th Anniversary of the Court can be seen the variety of it's work and the novelty of the objects of it's litigation often involving transcontinental

disputes embracing much of the world, showing that the Court is truly deserving of its designation as the World Court.

Do You Know Answers

Source: 108 *Arizona Capitol Times* 22 (January 26, 2007).

1. The State Fairgrounds.
2. The insane asylum.
3. Johnny Ringo.
4. Fort Defiance.
5. Prescott.

Contributors

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