

Teaching U.S. Legal Research Skills to International LL.M. Students: What and How

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Brutal Choices in Curricular Design ... is a regular feature of Perspectives, designed to explore the difficult curricular decisions that teachers of legal research and writing courses are often forced to make in light of the realities of limited budgets, time, personnel, and other resources. Readers are invited to comment on the opinions expressed in this column and to suggest other “brutal choices” that should be considered in future issues. Please submit material to Helene Shapo, Northwestern University School of Law, 357 East Chicago Avenue, Chicago, IL 60611, phone: (312) 503-8454, fax: (312) 503-2035.

By Elizabeth L. Inglehart

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Deciding how to treat the teaching of legal research is a challenge for any professor teaching a legal writing and research course geared for international graduate students. The challenge arises most often in a legal writing course being taught to students in one-year international LL.M. degree programs such as the one at Northwestern University School of Law, where I teach.¹ The vast majority of students in such programs are already attorneys in their respective home countries. Most of them have undergraduate

law degrees from their home countries and have worked in legal jobs for at least a year, sometimes many years, before entering an international LL.M. program at a U.S. law school.

Thus, these attorneys-cum-students already have experience with legal research. However, their experience generally is with research of quite a different kind than that taught in U.S. law schools and performed in U.S. legal practice. That is because most of these international LL.M. students come from code-based civil law countries, where the sources of law are less numerous and varied than in the U.S. common law system. One of the main features that differentiates common law legal systems, of course, is that common law systems rely on the concept of *stare decisis*, or following binding case precedents, whereas most civil law systems do not apply judicial decisions as binding precedent, or do so only to a very limited extent. Many of my international LL.M. students tell me that most of the legal research they are called upon to do in their home countries consists of looking up sections of their country’s civil code, or individual statutes, and that often they can find those sources in a single Web site, run by the government, that provides an official source for their country’s civil code and statutes.² The situation obviously is quite different with regard to

¹ After five years of teaching legal writing to J.D. students at Northwestern Law, I began teaching a similar course, common law reasoning (CLR), to two slightly different populations of international graduate students. In the summers of 2004, 2005, and 2006, I taught CLR to our LL.M./Kellogg students. Our LL.M./Kellogg students are enrolled in a program unique to Northwestern Law, where, in 12 calendar months, they earn an LL.M. from Northwestern Law, as well as a certificate from Northwestern’s Kellogg School of Management. In the fall semesters of 2004, 2005, and 2006, I taught CLR to our LL.M. students in our “traditional” international LL.M. program, a nine-month program. Our CLR course is a one-semester required course in the first semester of the LL.M. and LL.M./Kellogg programs.

I would like to thank my colleagues in developing and teaching the LL.M. CLR course at Northwestern Law over the past three years: Lauren Hines during fall 2004, Adrienne Giorgolo during fall 2005 and fall 2006, and Ellen Mulaney during fall 2006. Development of this course was a collaborative venture.

² For example, civil codes can be found online at the following sources:

France: French codes can be found online at <www.legifrance.gouv.fr/WAspad/ListeCodes>. See also *Guide to Law Online: France* (Law Library of Congress), <www.loc.gov/law/guide/france.html>.

Japan: The Japanese Consolidated Code Online (in Japanese) can be found at <www.e-gov.go.jp>. See also *Guide to Law Online: Japan* (Law Library of Congress), <www.loc.gov/law/guide/japan.html>; Makoto Ibusuki, Update to *Japanese Law via the Internet*, <www.llrx.com/features/japan2.htm> (a Japanese Law Professor’s Guide to Sources of Japanese Law on the Internet).

Mexico: Official government Web site providing Mexican civil codes: <www.diputados.gob.mx/LeyesBiblio/index.htm>. See also *Guide to Law Online: Mexico* (Law Library of Congress), <www.loc.gov/law/guide/mexico.html>; Jorge A. Vargas, *The Federal Civil Code of Mexico*, <www.llrx.com/features/mexcc.htm#1>.

U.S. legal research, since the U.S. legal system encompasses both federal and state jurisdictions, each with its own laws. Thus, depending on the legal question she is researching, the legal researcher must learn how to access and update the laws of any of these jurisdictions.

Should International LL.M. Students Be Taught U.S. Legal Research?

When teaching international LL.M. students who hail from many different nations, most of which are civil law or hybrid jurisdictions, then, the question arises as to what, if anything, we should teach them about U.S. legal research. One possibility is not to teach them any U.S. legal research skills, on the theory that they will be returning to their respective home countries after they graduate from the LL.M. program and will have no need to research U.S. law. This seems an unwise approach. While indeed the majority of LL.M. students will return to practice in their home countries after the LL.M. program, an increasing number of them are succeeding in getting jobs in U.S. law firms or with other legal employers after graduation. Some stay for a year or two as interns; others get permanent jobs as associates alongside American J.D. graduates. And both the students who return home immediately and the ones who get jobs in the United States have two things in common: they came to LL.M. programs in the United States because they wanted to learn more about the U.S. legal system, and in their jobs in their home countries they work closely with U.S. lawyers and need familiarity with U.S. law. Many of them work for foreign offices of U.S. law firms. Others work for foreign offices of U.S. corporations, or work for corporations in their own countries that have numerous U.S. clients or business or legal dealings with U.S. corporations. Under any of these circumstances, they will be called upon to analyze the application of aspects of U.S. law to various transactions. Thus it is important for them to learn how to find the applicable U.S. law that may be relevant to a given

relationship or transaction. They need to be taught something about researching U.S. law.³

The questions then become how much U.S. legal research LL.M.s should be taught in a legal skills course, and by what method they should be taught. At Northwestern, we spend somewhat less time on research skills in the LL.M. course than we do in the J.D. course. Our LL.M. legal writing course at Northwestern is a modified and shortened version of the two-semester legal skills course for J.D. students. Like the J.D. students, the LL.M. students write a closed memo and then rewrite it. We do not, however, assign the LL.M. students an open research memo. We have concluded that, because of the English as a second language challenges that many of the international LL.M.s bring to their experience in the common law reasoning (CLR) course, it is wiser to spend more of the semester working on their common law analytic skills and legal writing skills, rather than spending as much time as the J.D. students spend on legal research. We want the LL.M. students to emerge from CLR with at least basic solid skills in performing U.S. legal research and using it to answer legal questions. Accordingly, we teach the LL.M.s how to research in three main legal sources: statutes, cases, and secondary sources, and to use those research skills to find materials that will enable them to answer factual hypotheticals posing legal issues. As to methods, we teach the LL.M.s to locate the three types of sources in print, on LexisNexis® and Westlaw®, and on the free Internet.

³ Most international LL.M. students who return to practice law in their home countries will not have access to a large U.S. law library there. However, they will have other research sources available to them. Their employers may subscribe to Westlaw and/or LexisNexis, but even if not, both Westlaw and LexisNexis offer pay-as-you-go options by credit card, which allow attorneys to access either service for a day, a week, or a month. See LexisOne, <www.lexisone.com/legalresearch/index.html>; Westlaw by Credit Card, <creditcard.westlaw.com>.

In addition, the free Internet is becoming an increasingly useful source for researching U.S. law. See, e.g., Legal Information Institute at Cornell Law School, <www.law.cornell.edu/>; the Library of Congress, THOMAS, <thomas.loc.gov/> (federal legislative information); the U.S. Government's Official Web Portal, <www.usa.gov/>; the Government Printing Office Web site, <www.gpoaccess.gov/>; FindLaw®, <findlaw.com/> (providing limited free legal research sources); and LexisOne, <www.lexisone.com/> (providing limited free legal research sources).

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“Over the six semesters that I have taught [common law reasoning] to international LL.M. students, I have used different types of active learning assignments.”

Teaching Research to Individuals with Different Learning Styles

In an effort to reach students with all types of learning styles,⁴ and to put into practice the theory that complex skills are best taught by repetition,⁵ I have always taught legal research by combining a variety of methods. First, I assign reading about legal research in legal writing textbooks⁶ to reach the verbal learners. The Amy E. Sloan and Christina L. Kunz legal research textbooks are designed well to reach visual learners, in that their chapters on legal research include many sample pages from various primary research sources, both print and electronic. Second, after students have completed the assigned textbook readings, to reach the visual and aural learners I give PowerPoint lectures about how to do secondary source, statutory, and case law research. My PowerPoint presentations include pictures of pages from print research sources and screen captures from electronic sources. In addition, in fall 2006, during those lectures designed to reach the tactile learners, I brought in legal research books and had the students do very short in-class exercises to immediately try out research methods that I had just explained in the

⁴ See generally Rita Dunn & Kenneth Dunn, *The Complete Guide to the Learning Styles Inservice System* ch. 8 at 15 (1999) (Drs. Rita Dunn and Kenneth Dunn, who have researched learning styles for more than 30 years, describe four “perceptual preferences” used by students to learn new and difficult information: “(1) hearing it (auditorially), (2) seeing it (visually), (3) handling manipulative instructional resources (tactually), and/or (4) actively participating while standing or moving (kinesthetically).”) See also Robin A. Boyle, Karen Russo & Rose Frances Lefkowitz, *Presenting a New Instructional Tool for Teaching Law-Related Courses: A Contract Activity Package for Motivated and Independent Learners*, 38 *Gonz. L. Rev.* 1, 2–8 (2002–2003) (discussing learning-styles theory); Elizabeth L. Inglehart, Kathleen Dillon Narko & Clifford S. Zimmerman, *From Cooperative Learning to Collaborative Writing in the Legal Writing Classroom*, 9 *Legal Writing* 185 (2003).

⁵ See, e.g., discussion of teaching research to different learning styles in Samantha A. Moppett & Rick Buckingham, *Library Research Labs: A Hands-On Approach to Taking the First Step with Your Students to Reflect Good Practice in Legal Education*, 14 *Perspectives: Teaching Legal Res. & Writing* 73 (2006).

⁶ In the past two years of teaching the LL.M. course, I have assigned readings about legal research in Amy E. Sloan, *Basic Legal Research: Tools and Strategies* (3d ed. 2006) and Christina L. Kunz, Deborah A. Schmedemann, Matthew P. Downs, Ann L. Bateson & Susan L. Catterall, *The Process of Legal Research* (6th ed. 2004).

PowerPoint lectures. Third, to reach the tactile learners, once the overview lectures are delivered I have had the students spend one or two class periods doing hands-on, small-group guided research exercises in the library with our law librarians.⁷ Fourth, after the above three methods of teaching research have taken place, I have always assigned students to complete some kind of active learning research assignment.

Active Research Learning Assignments

Over the six semesters that I have taught CLR to international LL.M. students, I have used different types of active learning assignments. A brief description of each type of assignment I have used, and its advantages and disadvantages, follows.

1. Graded Research Scavenger Hunt (Guided Research Exercise) in Print Sources

The research scavenger hunt I assigned was a guided research exercise of the type that many legal research and writing professors probably completed as law school students. It required students to research legal issues arising from a hypothetical client problem using various, mostly print resources in the library. The scavenger hunt was very directed; it led the students through many specific research resources (digests, case reporters, print statutes, treatises, encyclopedias, online electronic databases, etc.) and in each resource asked them to find either a specific primary or secondary source (such as a case, statute, or law review article) or to list the best sources they found using that method.

Advantages: The scavenger hunt had the advantage of ensuring that students used each of many research

⁷ This required a large time commitment from the librarians to run these small-group exercises because the number of our LL.M. students increased each year. During the first two years that I taught the LL.M.s, when we had 60 LL.M. students, or even 80, the small group method worked. In the fall of 2006, however, our enrollment increased to 100 LL.M. students, and we decided that we simply would not have the resources to continue these small-group library exercises with the librarians. This decision, along with a decision to move to an integrated approach to teaching research (discussed below), led me to decide to assign students to work in small groups to do independent open research on a fact problem, and then to present the results of their research in class. The parameters of the group open research assignment will be further discussed below.

resources, and because the exercise called for particular answers, it was easy for the professor to tell whether the student used a particular resource correctly. For the same reason, the assignment could easily be objectively scored and graded.

Disadvantages: Some students felt that the assignment took them too many hours (about 20 to 25), and they were frustrated by the fact that many students were using the same books, so that books were sometimes missing from the shelves. Also, some students seemed to think that this assignment was “busywork,” because they did not use the answers to write any legal analysis, and because the topic (the meaning of “housing accommodation” under a discrimination statute) was not closely related to their interests, which tend toward business law and intellectual property areas. In addition, some students expressed frustration that the scavenger hunt focused quite a bit on print resources, to which students are less likely to have access once they return to their home countries.

2. Graded Internet Legal Research Assignment and Graded LexisNexis and Westlaw Electronic Research Exercises

In response to students’ expressed desires to spend more time focused on learning to use electronic research resources, in other semesters I did not assign a library research scavenger hunt, but instead assigned two graded electronic research assignments. One assignment required students to use LexisNexis and Westlaw to obtain the answers, and the other required them to use cost-free sources on the Internet. **Advantages:** The electronic research exercises focused on research methods students are more likely to use in practice (electronic pay and cost-free methods). For that reason, the students themselves perceived these exercises as more useful to their future law practice. Moreover, because the exercises had objective answers, they could be graded easily. **Disadvantages:** The main disadvantage of using these electronic research exercises was that students did not get hands-on practice in doing book research (except during the in-class small group exercises with the librarians). I perceive this as a disadvantage because I feel that those new to U.S. legal research will benefit from understanding the structure of the traditional print research

resources in order to use both print and electronic resources more effectively.⁸ As a result, I began searching for a new kind of assignment that might expose students to both print and electronic resources, and also keep them interested in the research process. This was one consideration that led me to adopt an integrated approach to teaching research.

The Move to an Integrated Approach to Teaching Legal Research

In fall semester 2006, I moved to using an integrated method of teaching research for the first time. In the past, I had always taught research on a method-by-method basis: first teaching how to research secondary and primary sources in print, then having our LexisNexis and Westlaw representatives give a class on how to research any source on those services, and then recently adding a lecture about how to research any source on the cost-free Internet. I decided to change my approach, however, based on a session I attended on integrated research teaching at the 2006 Legal Writing Institute Conference.⁹ This session,¹⁰ presented by Professors Kari Aamot and Suzanne Ehrenberg of the Chicago-Kent College of Law, Illinois Institute of Technology, convinced me that it makes more sense to teach research on a source-by-source basis. That is, for

⁸ See generally Patrick W. Spangler, *THE NEW WORLD versus THE OLD WORLD OF LEGAL RESEARCH: Are Print Resources Completely a Thing of the Past?*, 20 CBA Rec. 48 (April 2006); Lee F. Peoples, *The Death of the Digest and the Pitfalls of Electronic Research: What Is the Modern Legal Researcher to Do?*, 97 Law Libr. J. 661 (2005).

⁹ Legal Writing on the Move, The Twelfth Biennial Conference of The Legal Writing Institute, June 7–10, 2006, Atlanta, Ga.

¹⁰ Profs. Aamot and Ehrenberg’s session, which took place at the conference on June 8, 2006, was entitled Integrating On-Line and Print Research Training: A Guide for the Wary. Their description of the session in the conference brochure was as follows:

As on-line research becomes not only the first research tool of choice, but in some cases the only available research tool, we must integrate our teaching of on-line and print research and emphasize the content of legal information, rather than the container in which it is found. This presentation will introduce those who have not yet made the leap to integrated research training to some strategies for doing so, and identify some of the unique challenges that arise in such a research program.

See also Suzanne Ehrenberg & Kari Aamot, *Integrating Print and Online Research Training: A Guide for the Wary*, 15 Perspectives: Teaching Legal Res. & Writing 119 (2007).

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example, first teach students how to research secondary sources in print, on LexisNexis/Westlaw, and on the Internet. Second, teach how to research statutes in print, on LexisNexis/Westlaw, and on the Internet. Then do the same for teaching case law research. This approach has the advantage of enabling comparisons of the advantages and disadvantages of finding, for example, case law using each of these methods. It also teaches students more clearly about the choices and alternatives available to most effectively and efficiently arrive at the most relevant sources of law for their client situation. Accordingly, in fall 2006 I revised my syllabus and lectures to follow the integrated approach, and also arranged for the LexisNexis and Westlaw representatives to jointly teach three separate times to the LL.M.s: once covering secondary source research, once covering statutory research, and once covering case law research.¹¹

Small Group Research Project—Putting Integrated Research Teaching into Practice

In tandem with the move to an integrated approach to teaching legal research, it seemed appropriate to assign a research project that would allow students to choose for themselves which methods and sources they would use to find answers to their research questions, rather than being directed as to which method and which sources to use (as in the research scavenger hunts, which focused on print sources and required students to get answers by looking at specific books), or being directed as to which methods to use (as in the LexisNexis/Westlaw exercise and free Internet exercise assignments). Therefore, in fall 2006 I assigned an ungraded group open research project that required students to research client hypotheticals independently in groups and then to give presentations on the research steps they took and their results. For this

¹¹ In fall 2006, when we first used the integrated method of teaching research, we had nine research classes, as follows: 1) researching secondary sources in print and free Internet; 2) researching secondary sources on LexisNexis and Westlaw; 3) researching statutes in print and free Internet; 4) researching statutes on LexisNexis and Westlaw; 5) researching case law in print and free Internet; 6) researching case law on LexisNexis and Westlaw; 7) tips and caveats on Internet legal research; 8) using secondary sources to get started in transnational law research; and 9) finding U.S. treaties and determining parties to treaties.

assignment, the students were allowed to use any type of research sources (print, LexisNexis or Westlaw, or free Internet). I also very much liked the fact that this open research project required students to work collaboratively in small groups.¹²

The small group research projects that we assigned to the LL.M.s in fall 2006 were structured as follows. Our faculty¹³ adapted two research problems from Nadia Nedzel’s legal writing textbook¹⁴ for the purposes of our course.¹⁵ We decided to assign each problem to half of our LL.M. students, so we wanted the problems to be roughly comparable in terms of difficulty and required research time. We therefore revised the factual hypotheticals in the two problems so that both problems required the students to research secondary sources, international treaties, U.S. federal statutes, and U.S. federal case law. We also removed the questions in the Nedzel text that were more directive and geared toward specific individual research sources. In their place, we asked the students several broad questions about the legal issues in their client’s situation. We divided the students (we each teach two sections of about 16 students) into small research groups of about four students by having them count off by four during class time. This put them into randomly formed groups with other students near whom they did not ordinarily sit, and who they might not know well. We assigned each of the problems to half of the small groups in each section. The students received the research problems during the fifth week of the semester, when they had already attended about half of the research classes for the semester. The students then had about six weeks to work with their small group members on their research problem. The students were told that they could use any of the

¹² See Inglehart, *supra*, note 4 (discussing the theory and practice of collaborative group exercises).

¹³ Professors Adrienne Giorgolo, Ellen Mulaney, and I each taught about 30 international LL.M.s in fall 2006.

¹⁴ Nadia E. Nedzel, *Legal Reasoning, Research, and Writing for International Graduate Students* (2004).

¹⁵ The research problems that we adapted are found in the teacher’s manual accompanying Prof. Nedzel’s textbook. One problem dealt with the extraterritorial reach of U.S. bankruptcy laws, and the other dealt with claims under the Alien Tort Statute and the Torture Victim Protection Act.

research methods they had learned about in our course, but that for purposes of getting practice, we wanted them to spend at least some time using print sources, using LexisNexis and Westlaw, and using the free Internet. In early November, each group was required to do a 20-to 25-minute presentation to the rest of their section, summarizing the research path and methods their group used, and the answers they reached about their client's legal issues. We required each student in each group to present for at least five minutes. As part of their presentation, each group was also required to comment on which research resources they found more useful and which they found less useful.

This research assignment was very successful on several levels. First, the other LL.M. CLR professors and I were pleased that the assignment required students to research actively, by developing a research strategy and applying it to a client problem. Second, we were pleased that the assignment required students to practice using a wide variety of research sources, both print and electronic, and to compare their relative efficacy. Third, the group presentations demonstrated that the students had reflected on the

process of research and had learned a great deal about research strategy, the use of individual sources, and the subject matter of the law of their problem. Finally, and perhaps, most importantly, the students enjoyed the assignment. They appreciated the opportunity to work independently and creatively to develop an effective research strategy. They benefited from sharing ideas from the members of their small group and teaching each other how to use the research resources. They liked researching subject matter that involved international and transnational legal issues and commercial law business issues. And they enjoyed feeling as if they were researching a real problem for a real-world client.

In conclusion, our faculty feels that the small group open research project was the most successful active research learning method that we have thus far used with the LL.M.s. It was a successful experiment that our faculty plans to repeat in future years.

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Another Perspective

“For me, legal writing as a profession is unique in academic disciplines. It is not hierarchical; its members support each others' careers. It is not parochial; its members strive to improve legal writing instruction nationally. Legal writing is more a community, a family.”

—Mary S. Lawrence, *The Legal Writing Institute: The Beginning: Extraordinary Vision, Extraordinary Accomplishment*, 11 *Legal Writing* 213, 214 (2005).