Teaching Legal Research and Government/Legal Information: Yes, We Do It, But How?
By Svetlana Kochkina

ABSTRACT
The article presents the results of a review of professional and scholarly literature published on the subject of legal research and government/legal information instruction between 2000–2018. The goal of the review was to present a comprehensive picture of theoretical and conceptual approaches to pedagogy, as well as teaching techniques, methods, and tools used by law librarians in legal research instruction and information science faculty in government/legal information courses. The review revealed a significant gap in the state of knowledge on the subject that needs to be addressed by future research.

Introduction
This article is more a question than an answer and the beginning of a new research project that aims to fill a gap in the literature on the subject of legal research and government/legal information instruction. I became acutely aware of this gap when, after seven years of professional practice as a law librarian actively involved in teaching legal research to undergraduate and, later, graduate law students, I was invited to teach a government and legal information course to master’s students at the McGill School of Information Studies. This invitation came at a time when graduate legal research instruction at the Faculty of Law was going through a significant revision. Even though I have always kept abreast of current trends and new developments in education, I saw this as an opportunity to renew and refresh my knowledge and toolkit of teaching methods to meet the challenge of teaching Generation Y students, whose learning habits and needs differ significantly from their predecessors. To this purpose, while preparing my courses and with the hope of learning from my colleagues, especially those in Canada, I conducted a study, the results of which I am presenting here.

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Scope of the Study

I designed this study as a comprehensive review of the literature published since 2000 on teaching legal research and government/legal information instruction. The primary goal of this study is to understand a well-established but highly fragmented topic and find out which of the existing panoply of contemporary pedagogical approaches and technology-enabled teaching techniques law librarians use in legal research instruction and information science (IS) faculty use in government/legal information courses, with a focus on the US, UK, and, especially, Canada. The second goal of the study is to identify gaps in the current knowledge to direct future research on the subject.

Methodology

The aim of the review was to discover the methods and approaches that were reported as actually being used and not to review the literature on the methods and approaches that could potentially be used. Therefore, literature from fields other than law or IS (e.g., education) was not included in the review. Three types of literature on legal research were purposely excluded from the review. The first type to be excluded is publications discussing insufficient and falling levels of legal research skills among graduating law students and the importance of acquiring these skills, but not offering practical and feasible recommendations on how to address these issues and overcome shortcomings. It must be mentioned that the trend of recurring concerns regarding students' ability to conduct legal research is worrisome in its consistency, judging by the number of articles and persistence of this theme going back to at least 1902. It could be hoped that implementation of some of the innovative teaching methods, discussed below, could help to reverse it. The second type excluded from the present review is literature that discusses which legal research tools, databases, and research techniques students should know and, thus, what should be taught in legal research and writing classes, but again without going into methods of how it should or could be done. Another substantial category excluded from the review is literature such as books, handbooks, and articles on practicalities of legal research. While extremely helpful for anybody conducting or learning to conduct legal research, these publications, due to their scope, do not discuss pedagogical approaches and teaching techniques and methods, except occasionally offering examples of exercises for students, and are, thus, excluded from this study.

The following sources were used for the review: WorldCat; HeinOnline’s Law Journal Library; Library & Information Science Abstracts (LISA); Library Science Database; Library Literature Fulltext; Library, Information Science & Technology Abstracts (LISTA); as well as several subject-specific journals: Canadian Law Library Review, Journal of Education for Library & Information Science, Law Library Review, Legal Reference Services Quarterly, Legal Information Management, and AALL Spectrum.

Research Questions

The review of the literature was conducted with the goal to answer three research questions:

1. What theoretical and conceptual approaches to pedagogy do law librarians use to develop their instruction in legal research and IS faculty in government/legal information?
2. Are there any new and innovative teaching techniques, methods, and tools developed to respond to progress in technology and digital information that have been used (successfully or not) by both categories of educators?
3. What, if any, are the differences in theoretical and conceptual approaches, as well as in techniques and methods of instruction by discipline: law vs IS?

The emphasis on comparing and juxtaposing teaching methods in legal research instruction for law students with government/legal information courses for IS students has not been predefined solely by my personal practical considerations outlined above. Both disciplines offer highly specialised professional education to students who already hold at least a bachelor’s degree (with the exception of law schools from Quebec), and who, thus, have a more advanced understanding of the university-level research process as compared to students still pursuing their undergraduate studies. Therefore, I suggest that instructional methods and techniques designed for one discipline could be successfully borrowed and adapted for another.

Results

The review has not found satisfactory answers to the research questions above in the published scholarly and professional literature. Instead, it has revealed a significant knowledge gap, which I intend to address in future research projects.

There is a reasonable amount of literature on teaching practices adopted in individual institutions or recommended by individual librarians, especially outside of Canada. However, the literature is in dire need of a comprehensive study that would describe a complete picture and analyze the existing state of the pedagogical approaches, techniques, and methods used in legal research instruction for law students. With regard to the pedagogical approaches and teaching practices of IS faculty in teaching government/legal
information courses, the current knowledge is even more inadequate. The literature review found no studies and a surprising dearth of professional or academic literature on the topic, thus precluding me from answering the research questions above. This lack of existing research emphasizes the need for a comprehensive study documenting these practices, and, in particular, one that will provide recommendations for the future as educators try to meet the challenge of teaching students belonging to digital-native generations.

The review shows that current literature on teaching legal research to law students fall broadly into three categories. The first category comprises articles exploring conceptual and theoretical approaches to legal research pedagogy but not necessarily concentrating on any specific examples of methods and techniques that could be used to implement them. The second category consists of the articles discussing possibilities, benefits, and the necessity of basing legal research instruction on the information literacy framework. These could have been included in the first category, but when considering the recency of the topic in the area of law librarianship, it was decided that they are worth particular attention. Third is the category describing how and with what specific instructional methods, tools, and techniques legal research is or can be taught.

As to literature on government and legal information instruction in master’s programs in IS schools, the total of six (!) articles published since 2000 addressing this question to some extent constitute a fourth category and are reviewed separately.

**Theoretical Approaches to Legal Research Pedagogy**

The review of literature on legal research pedagogy published in the last 18 years confirms that a phenomenon described by Paul Callister in several articles, the first of which was published 15 years ago, still holds true:⁴ law librarianship still “lacks sufficient consideration of pedagogical theory from the field of education.”⁵ The field is still in need of a “suitable, yet flexible, pedagogical model for the acquisition of legal research skills.”⁶ Which would have a significant basis in pedagogical theory. While there is a trickle of articles expressing interest in the topic and offering different theoretical approaches to legal research pedagogy, the field as a whole still has not fully engaged in discussing and finding a common approach. This approach is needed to remediate the lack of “scholarly depth with respect to pedagogical theory” in law librarianship literature, trailing behind both academic librarians in other disciplines and legal educators.⁷

In his 2009 article, Callister offered to use Benjamin Bloom's taxonomy of learning objectives, which identified three domains of learning—cognitive, affective, and psychomotor—and a range of skills for each domain, as well as a list of behaviours by which the level of skill could be assessed, as a suitable theoretical foundation for modern legal research pedagogy.⁸ Callister expounded on the model in 2010, adapting it with examples from the field of legal information and illustrating “the taxonomy’s practical application for instructional design in legal research courses.”⁹ It is necessary to mention that it was Maureen Fitzgerald, a Canadian lawyer, author, and educator, who first suggested that legal research instruction could be based on the theoretical foundation of Bloom’s taxonomy.¹⁰ At the time, Fitzgerald’s suggestion gained no further traction in the field of law librarianship. Callister’s call for the profession to blossom and ground its teaching in a sound pedagogical theory elicited a response from the law librarianship community that will hopefully grow into an adoption of a theoretical foundation for legal research instruction. Callister’s take on Bloom’s taxonomy was suggested as the basis for a taxonomic approach to legal research pedagogy that will assist in aligning teaching objectives and student learning assessment.¹¹ Bloom’s and Callister’s taxonomies were proposed as theoretical foundations for designing learning activities that elicit metacognition, as well as engage and develop the analytical skills necessary for efficient and competent legal researchers.¹² In the latest development, Callister’s revision of Bloom’s taxonomy was suggested to be used alongside systems theory and active learning methods to develop a “pedagogy that is adaptive, effective, and prepares students for solving clients’ legal problems in practice” that would enable fostering students’ metacognitive skills even beyond their legal research application.¹³

At present, Callister’s adaptation of Bloom’s taxonomy appears to be the pedagogical theory most appealing to, or at least most widely discussed in, the law librarianship community. However, other theoretical approaches to instruction are also being explored in the literature, albeit none so widely. Margaret Butler argued for a resource-

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⁵Callister, “Blossom”, supra note 4 at 191.
⁶Callister, “Beyond Training,” supra note 2 at 8.
⁷Callister, “Blossom”, supra note 4 at 194.
⁹Callister, “Blossom”, supra note 4 at 218.
based learning approach to legal research instruction that has a background in constructivist pedagogical theory. In constructivist theory, knowledge is not transmitted from teacher to students but is constructed from students’ experiences. It is worth noting that Butler also based her discussion of questioning strategies as instructional technique on Bloom’s taxonomy of learning, but not on Callister’s adaptation of it. Kristin Gerdy explored other theoretical pedagogical approaches that could be applied to legal research instruction, such as andragogy, or adult learning theory, with its emphasis on experiential learning, flexibility, and self-direction, as well as Kolb’s experiential learning theory model that includes a four-stage learning cycle and four separate learning styles. According to Gerdy, law librarians can make legal research instruction efficient and help students acquire practical research skills by taking students through all four facets of the learning cycle that a learner passes numerous times while they are progressing from novice to expert: concrete experience, reflective observation, abstract conceptualization, and active experimentation until each of them is capable of doing it independently.

The articles discussed above signal that law librarians have an interest in developing a theoretical foundation for legal research instruction. However, it is not known how widely, or if at all, the pedagogical theories and models discussed above, as well as others that have not been yet in the focus of literature on law librarianship, are integrated in the day-to-day legal research instruction by practicing law librarians.

Legal Research Instruction and Information Literacy Frameworks

The Association of College and Research Libraries (ACRL) defines information literacy as “the set of skills needed to find, retrieve, analyze, and use information.” ACRL adopted their first Information Literacy Competency Standards for Higher Education in January 2000. The standards have been recently reworked and enlarged to constitute the Framework for Information Literacy for Higher Education. However, law librarians were rather late in espousing information literacy standards. They were adopted only recently after voices were raised strongly and convincingly arguing the necessity of implementing information literacy as a framework for legal library instruction and assessment. The British and Irish Association of Law Librarians developed their Legal Information Literacy Statement only in 2012, and the executive board of the American Association of Law Libraries (AALL) adopted Principles and Standards for Legal Research Competency, modeled on the ACRL standards, even later, in July 2013.

While timely and necessary for “academic law librarians to design curricula that will help correct deficiencies in law students’ information literacy skills,” AALL-approved Principles and Standards for Legal Research Competency were created without guidance on “how the principles are to be incorporated into the curriculum.” To create instructional modules, assessments, and activities based on these principles and standards, a backward model of curriculum design can be used by librarians, as demonstrated by Nancy Talley. Backward design is a technique borrowed from the field of education that “inverts the steps of the traditional instruction design process,” requiring “instructors to select an academic standard … before creating assessments or designing a lesson’s instruction and activities.”

The use of this well-established model of course design could help law librarians develop legal research instruction that will integrate acquisition of information literacy skills by law students. Phoebe Poydras briefly explored how information literacy standards can be incorporated in teaching legal research to prepare information literate law students, using new teaching strategies and different teaching methodologies based on understanding learning styles such as active, collaborative, and problem-based learning. As law libraries are slow to make the shift in their research instruction to incorporate information literacy principles and standards, legal educators continued to argue the urgent necessity of such change. Margolis and Murray, who advocated information literacy as an underlining framework for research instruction before the adoption of the AALL Principles and Standards, maintained their argument, demonstrating in their more recent articles that information literacy competencies for critically evaluating and assessing information are needed and necessary to make digital-native law students practice ready, also providing practical solutions on how to make necessary changes to the curriculum.
Unfortunately, the Canadian Association of Law Libraries (CALL) does not yet have an official framework on integrating information literacy standards into legal research instruction on its website. However, calls and arguments to adopt and use an information literacy framework and standards for teaching and practicing legal research are also coming from Canadian law librarians. In 2008, Kim Nayyer pointed out that the legal research conducted in the context of law firms by many less experienced researchers and law students “is not centred in information literacy” and “does not incorporate or display the basic elements of information literacy,” and called for this to change. In 2009, Michels and Lewis demonstrated that law students now face a different legal information landscape where they are in need of not only legal research skills—knowledge of how to find legislation, caselaw, and secondary literature—but also of information literacy skills, understood as an ability to critically assess and evaluate information and its sources. These information literacy skills were less pertinent in the former, expert-driven system, when legal information that was accessible had been assessed, selected, and curated by experts. Now, the onus to evaluate not only “the value, appropriateness, and utility of legal documents” for their specific research question but also “the reliability, validity, accuracy, authority, timeliness, and point of view or bias of the potential information sources” has increasingly shifted to students. This is the task for which the student will be better equipped if information literacy is adopted as an underlying paradigm of legal research instruction.

Despite these convincing arguments for information literacy principles and standards to be adopted as an underlying paradigm of legal research instruction, it is not yet known how widely, if at all, this approach has been embraced in legal research instruction in Canadian law schools.

**Methods and Techniques in Legal Research Instruction**

Researchers and librarians discussed the necessity of changing and updating teaching methods to meet the needs of Generation Y, or millennial, students. These digital natives grew up with technology as an integral part of their day-to-day life and do not respond well to traditional, teacher-centred approaches in legal research instruction but thrive in active learning-centred, collaborative, exploratory, and discovery-oriented environments. Therefore, new techniques and methods are being tried, tested, and adopted to help this new generation master an increasingly diverse legal information landscape and acquire research skills that will help them succeed in a practice environment.

Several common themes emerged from the review, most of them pertaining to the topic of integrating one or several active learning techniques, where students learn from projects, hand-on assignments, and practical tasks rather than from lectures and exposure to topics in class; e.g., a flipped classroom, collaborative assignments and projects, use of modern technology, and learning through games.

According to the literature, the approach of a flipped, or inverted, classroom is the most widely spread documented active learning method in legal research instruction. In the flipped classroom, “traditional inside-classroom components, such as lecturing and reviewing concepts [are moved] to outside the classroom. Students complete these outside activities on their own time.” By doing so, law librarians create the opportunity to repurpose class time “into a learning lab where students test their skills in applying the knowledge acquired from the readings and other instructional materials” by actively doing research focused on solving a realistic factual example. A flipped classroom allows for often scarce face-to-face teaching time to be spent on students “actively learning through practical tasks and discussion to consolidate student learning” with students taking “responsibility for their own learning.”

The instruction offered fully or partially, as with an inverted classroom, online “has great potential for accommodating the learning styles and preferences of Millennial law students, as well as for the effective teaching of legal research in the digital age,” but it is not without some challenges and disadvantages. Leslie Taylor and Nicola Sales present a succinct and comprehensive picture of benefits, disadvantages, and challenges of the flipped classroom in their articles, alongside helpful, practical advice for librarians considering inverting their classroom. It is important to mention that there is little evidence that the actual learning outcomes are better when using online modules as compared to live lectures. In fact, a recent study demonstrated that by themselves instructional videos are no more effective than live lectures as “offering course material as a self-paced recorded module yielded no advantage to students, in terms of retention of the subject material, over offering the same material through a live lecture.” Therefore, the main advantage of a flipped classroom might lie in freeing up face-to-face class time, with which law librarians are often pressed, to allow students to practice the skills learned through recorded online modules.

Integrating new technologies and multimedia tools into the legal research classroom is another approach to teaching

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28 Ibid at 71.
34 Leslie Taylor, “Five Flippin’ Good Reasons to Flip Your Legal Research Class” (2016) 25:1 Persp: Teaching Legal Res & Writing 23; Sales, supra note 32.
technology-savvy and collaborative millennial students. Use of intelligent clients to create exercises and practice interactions; visualising legal information through colours, sizes, or heatmaps to better teach visual learners about case precedents and history; monitoring and assessing students’ progress in legal research with mind-mapping software, such as LexisNexis’s CaseMap; using games (online, TV-show-style in class, or a treasure hunt) to reinforce and improve retention of a course’s concepts and skills are examples of reported tools and techniques. According to the authors, they make the legal research learning experience more student focussed, active, varied, flexible, and attractive, increasing students’ engagement and ultimately enhancing efficiency of instruction.

Both the flipped classroom approach and integration of technology allow instructors to cater legal research instruction to another trait of millennial students: their readiness and preference to learn collaboratively. Hands-on group exercises in a flipped classroom, the use of wiki software to research a legal issue in a team, or the use of a case annotation platform, such as Casetext, are examples of their application in legal research instruction. The benefits of collaborative learning for millennial students are that it “enables students to practice conducting legal research in a structured setting that provides interaction, feedback, and reinforcement. Students learn from each other and tend to make better judgments than when working alone,” which again makes the instruction more effective. Collaborative learning can, for example, take a form of “think, pair, share” when students work independently on a legal research problem, then pair up and discuss it to finally share their answers with the rest of the class. Another tactic to make legal research instruction more efficient, either delivered through a flipped classroom, with new technology, or through other methods, is to use research problems connected to real life, modern, and current issues and problems, as they motivate modern students to perform and engage better with the content of the lessons.

Interestingly, the use of research plans, an instructional technique tried before and not wholly innovative, became highly relevant once again and is recommended by several authors as required in legal research instruction for millennial students. Inclusion of research plans and regular training in their use is needed because students tend to transfer their web-searching habits into legal research and begin their work on a new problem without clear understanding of the problem and its legal context. A decrease in the time- and cost-efficiency of their research resulting from this phenomenon becomes a significant issue when they begin their professional lives. Making students aware of the deficiency of such a research technique and helping them use their problem-solving and legal analysis skills to develop a research plan through active learning group work exercises can successfully counter this habit.

Current professional literature, reviewed above, provides law librarians with examples of specific innovative instructional methods and techniques that can be integrated to teach legal research efficiently to modern generations of law students. However, it lacks a comprehensive study of how widespread and widely adopted these methods are, and what other techniques not reported in the literature are being used, especially in Canadian law schools.

Teaching Government/Legal Information in IS Schools

Instructional practices of IS faculty in teaching government/legal information courses are in even a greater need of being described and documented, as the literature review found no studies on the subject and a general staggering paucity of the literature. The IS literature is almost silent on what students should—but do not—know, what should be taught in government/legal information courses, or how it could be done. Similar to literature on legal research, it exists as a number, though smaller, of how-to publications, manuals, and handbooks, useful for searching for government information but not at addressing the question of teaching it. All this is despite the fact that courses focussed on legal resources, government information, and legal research are offered to students of IS schools on regular basis. It is also worth noting that of the total of six papers, three were authored or co-authored by the same person, clearly indicating not only his motivation to raise awareness of the issue but also a certain indifference to the subject from other IS educators and researchers.

Only three relatively recent papers address the subject of government information instruction in IS schools, with two of them advocating for the necessity of preparing future librarians to work with e-government information.
The articles authored (2008) and co-authored (2012) by Paul Jaeger argue, using the e-government librarianship concentration in the master’s program at the College of Information Studies of the University of Maryland as an example, that continued growth of e-government information has and will have significant implications for the work of information organizations and their staff. E-government and the information that it is producing are presenting them with new challenges and opportunities as users seek assistance at public and other libraries with e-government documents, forms, and functions. Jaeger et al stipulate that to prepare future e-government librarians to meet these challenges, IS schools that have “so far paid scant attention” to this subject have to adopt innovative approaches in their pedagogy and practice and emphasize e-government in their educational programs and research, without, however, discussing methods of how to do it in many details. Only one paper, now becoming dated but still useful, on preparing a course on government statistical information deals directly with teaching methods for this type of government information, outlining course content, instructional methods, textbooks to use, and suggesting issues for the discussion.

The literature on preparing future law librarians demonstrates a similar, almost complete lack of scholarly studies and professional papers. This could be logically attributed to a “near-complete neglect of the education of law librarians” by the library and information science schools well documented in the recent article by Jaeger and Gorham. This article explores the origins of the long-standing concerns and issues with the professional education and preparation of law librarians in the United States, offering some direction on how these issues could be resolved by making adjustment to IS schools’ curricula. Jaeger and Gorham’s paper was published in 2017 when the neglect towards the education of law librarians was still alive, despite the fact that as early as in 2005 the study by Gathegi and Burke found that IS schools, and especially iSchools, were making an effort to infuse law into information studies by integrating either substantive law or legal information courses into their curricula. Interestingly, the findings of Gathegi and Burke’s study were not corroborated by another paper published in 2005 that found significant gaps in available educational opportunities, especially in advanced legal information training, offered by IS schools to aspiring law librarians.

The paucity of literature on the topic of government/legal information in IS schools precludes me from answering the research questions above, as well as from making any conclusions on the state of teaching these subjects, and clearly indicates the gap in knowledge to address.

Conclusion and Reflections on Future Research

The review of the literature above did not find answers to the research questions posed. Instead, it revealed a need for a comprehensive study that would describe the current state of the pedagogical approaches and methods used in legal research instruction and government/legal information courses. I know from anecdotal evidence and personal communications that law librarians and IS faculty employ a panoply of teaching methods and use a variety of innovative teaching practices. However, these approaches, methods, and practices, especially the ones adopted at Canadian institutions, are in urgent need of being described and documented. It is necessary to state that my emphasis on Canadian context is not only due to its particular relevancy to my own professional practice but also to two other factors. First, most of the literature reviewed above pertains to approaches and practices in the US or, to a lesser degree, the UK, while Canadian ones are severely under-described and under-documented. Second is the particularity of Canadian legal information that comes into being in a bilingual (French and English) and bijural (common law and civil law) environment. This environment requires different teaching approaches than those used in unilingual, common law jurisdictions, such as the US or the UK. In an upcoming research project, I plan to survey, describe, and document pedagogical approaches and methods used in legal research instruction at law schools and faculties in Canada and government/legal information courses in Canadian IS schools. I hope the results of this future study will not only advance the state of knowledge on the subject but also be of practical value to educators in both disciplines.

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