

## **Three Faces of Information Literacy in Legal Studies: Research Instruction and Law Student Information Literacy Standards in the American Common Law, British Common Law, and Turkish Civilian Legal Traditions**

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# Three Faces of Information Literacy in Legal Studies: Research Instruction and Law Student Information Literacy Standards in the American Common Law, British Common Law, and Turkish Civilian Legal Traditions<sup>†</sup>

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**Abstract:** Information Literacy (IL) has been defined by the ACRL as the ability to identify, access, evaluate, and apply information in an ethical manner. However, IL skills are not an ossified set of behaviors, and IL skills cannot evolve in an intellectual vacuum, without the content that allows for such skills to emerge from practice. As such, IL should be contextualized within the structures and modes of thought of particular disciplines. In response, a burgeoning IL in law movement has arisen, applying the standards of identification, accessing, evaluation, application, and ethical analyses to legal information and the research methods and tools unique to the practice of law. This article traces the development of this movement in three distinct jurisdictions: the United States, the United Kingdom, and Turkey.

**Keywords:** information literacy, law student information literacy, legal research pedagogy, metacognition in research instruction, Turkish legal research instruction, UK legal research instruction, US legal research instruction

## 1. Introduction

If there is one recurring theme in legal research pedagogy, it might be the perception that current students or newly admitted attorneys lack the research skills they need. As Callister notes, “the state and decline of law student research

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skills have been an unvarying constant of legal education for decades.”<sup>1</sup> Legal education in the United States has been enervated and excited by more than 20 years of formal criticism of the academy’s curricula, teaching methodologies, student outcomes (or the lack thereof), and its general difficulty in producing graduates that are “ready for practice.”<sup>2</sup>

Against this background, law librarians around the world have sought to devise taxonomy of skills that would provide baseline definitions and examples of information literacy (IL) in the study of law. This paper compares three approaches to defining law student information literacy (LSIL), and providing examples of information literacy competence among scholars and practitioners of law. We detail below the general structure of LSIL endeavors within three different jurisdictions, and subsequently turn to discuss how IL instruction can fit into the structure of legal education with minimal effort that yields in maximum returns.

As a threshold matter, we must first outline some key distinctions among education and training within each of these three legal systems. Both the US and UK legal systems are “common law” systems, which give weight to judicial precedent while allowing for judicial review of prior decisions and statutes. However, the Turkish legal system, like most of the rest of the world, has its basis in civil law, which privileges the national code or legislation over judicial review. Moreover, while legal education is an undergraduate course of study in the UK and in Turkey (as it is in most of the world), legal education in the US is a graduate course of study. As such, one might expect that US law students would be more ‘information literate’ than their UK and Turkish counterparts. However, as we will show, each jurisdiction has had issues with respect to law student information literacy, and each jurisdiction has presented a different response to these issues.

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<sup>1</sup> Paul Douglas Callister (2003). *Beyond Training: Law Librarianship’s Quest for the Pedagogy of Legal Research Education*, LAW LIBRARY JOURNAL, 95(1), 7-46, at 9-10.

<sup>2</sup> See, e.g., Am. Bar Ass’n, Section of Legal Educ. & Admissions to the Bar (1992). *Legal Education and Professional Development – An Educational Continuum: Report of the Task Force on Law Schools and the Profession: Narrowing the Gap* (hereinafter referred to as the “MacCrate Report”); see also William M. Sullivan, et al. (2007). *Educating Lawyers: Preparation for the Profession of Law* (hereinafter referred to as the “Carnegie Report”).

## 2. Old Wine in New Skins: The American Approach to Law Student Information Literacy

As a basis for research instruction, IL has long been considered a core doctrine to academic librarians, but law schools have been quite slow to adopt this paradigm.<sup>3</sup> In response to such tardiness, and after much drafting, the Executive Board of the American Association of Law Libraries (AALL) approved the Law Student Research Competency and Information Literacy Standards in March 2011: that a document was drafted by the AALL's Law Student Research Competency Task Force. The standards use the framework established in the Information Literacy Competency Standards promulgated by the Association of College and Research Libraries as a foundation, but "explicitly [ties the competency and information literacy standards] to the problem-solving work [that is] at the heart of legal analysis and research."<sup>4</sup>

While a detailed analysis of the AALL Research Competency and Information Literacy Standards is beyond the scope of this paper, it is worthwhile to examine the top-level principles that outline the standards.<sup>5</sup> "The principles advanced by the American Association of Law Libraries are:

- I. A successful legal researcher possesses foundational knowledge of the legal system and legal information sources.
- II. A successful legal researcher gathers information through effective and efficient research strategies.
- III. A successful legal researcher critically evaluates information.
- IV. A successful legal researcher applies information effectively to resolve a specific issue or need.

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<sup>3</sup> Paul Douglas Callister, *The Metacognitive Imperative*, in *THE BOULDER STATEMENTS ON LEGAL RESEARCH EDUCATION: THE INTERSECTION OF INTELLECTUAL AND PRACTICAL SKILLS*, 51 (Susan Nevelow Mart, ed., 2014) (citing Dennis Kim-Prieto, *The Road Not Yet Taken: How Law Student Information Literacy Standards Address Issues in Legal Research Education and Training*, 103 *LAW LIBR. J.* 605, 619 (2011)).

<sup>4</sup> Dennis Kim-Prieto, *The Road Not Yet Taken: How Law Student Information Literacy Standards Address Issues in Legal Research Education and Training*, 103 *LAW LIBR. J.* 605, 610 (2011).

<sup>5</sup> *See id.* for a detailed analysis of the Standards and a discussion of what they might be used to accomplish. *See also* Nancy B. Talley, *Are You Doing It Backward? Improving Information Literacy Instruction Using the AALL Principles and Standards for Legal Research Competency, Taxonomies, and Backward Design*, 106 *LAW LIBR. J.* 47 (2014) for valuable insights into utilizing the Standards in legal research pedagogy.

- V. A successful legal researcher distinguishes between ethical and unethical uses of information, and understands the legal issues associated with the discovery, use, or application of information.”<sup>6</sup>

These principles explicitly mirror the ACRL’s Information Literacy standards, and do so in order to make the body of work already done in the area of information literacy accessible to use in legal research education.

The implementation of these principles (and their concomitant standards) is already underway: AALL has already established a web presence on the AALNET website that “invites librarians, law schools, law firms, continuing legal education providers, and relevant organizations in the legal profession to engage in the implementation of these *Principles and Standards* in meaningful ways that will result in more competent, effective, and efficient legal research...”<sup>7</sup>

Moreover, AALL has been reaching out to other stakeholders to promote the Principles and Standards. In particular, representatives from the Promoting the *AALL Principles and Standards for Legal Research Competency* Task Force presented a program entitled “Using the *AALL Principles and Standards for Legal Research Competencies* in Law Schools and Law Firms” at a recent meeting of the National Association for Law Placement / American Law Institute Professional Development Institute (NALP/ALI PDI). This program “resonated with the audience of both academic and law firm professionals, who agreed that AALL’s compendium of core research competencies can and should become the principal guideline for measuring and evaluating legal research competency.”<sup>8</sup>

Indeed, the AALL Legal Research Competencies website offers materials that invite the implementation of the Principles and Standards, including a detailed action plan, a thorough implementation report, and a copy of the Principles, Standards, and Competencies ready for use within organizations and law schools.<sup>9</sup> However, official implementation from the Association is merely the beginning; scholars have also promoted the use of the Principles, Standards, and Competencies in the classroom. A recent example discusses the use of “backward design,” which is a curriculum design method that has been used at

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<sup>6</sup> See AALL Principles and Standards for Legal Research Competency, <http://www.aallnet.org/main-menu/Advocacy/legalresearchcompetency/principlesstds> (last viewed 4 Feb. 2014).

<sup>7</sup> AALL Legal Research Competency, <http://www.aallnet.org/mainmenu/Advocacy/legalresearchcompetency> (last viewed 5 March 2014).

<sup>8</sup> Gail Partin and Mary Jenkins, *There’s a Competency for That! Standards for the Successful Researcher*, AALL SPECTRUM ONLINE (2014) <<http://www.aallnet.org/-main-menu/Publications/spectrum/SpectrumOnline/Com-petency.html>> (last viewed 6 May 2014).

<sup>9</sup> *Id.*

all levels of education, including law school clinics, to promote student learning. Backward design consists of three phases that must be approached in the following order: (1) identify the desired results by considering academic standards (i.e., Research Principles and Standards), (2) determine what evidence will show that the students have achieved the desired results from the Research Principles and Standards (i.e., competencies or assessments), and (3) create learning instruction and activities that relate to the specific academic standards.<sup>10</sup>

Despite these developments, implementation of Law Student Information Literacy initiatives remains rare within law schools in United States jurisdictions, and most scholarly discussions focus upon applying the Principles and Standards in theory, rather than demonstrating how they have been applied in practice. It is this lack of praxis that, we shall see, distinguishes the approach to Law Student Information Literacy in the United States from the approach within the United Kingdom as well as within Turkey.

### 3. Keeping Calm and Carrying On: the British Approach to Law Student Information Literacy

The British focus on Law Student Information Literacy emerged from colloquy at an annual meeting of the British and Irish Association of Law Libraries; after noting that the research skills of young associates were less than satisfactory, “attendees were proactive in volunteering suggestions to address the decline, with the most frequently cited solution being information literacy.”<sup>11</sup> The result of this discussion led to an articulation of an Information Literacy Statement, followed up with a survey of practitioners to measure the utility of items asserted in the Statement.<sup>12</sup>

The BIALL statement is much succinct than the AALL Principles, as can be easily seen below, requiring that law students:

1. “Demonstrate an understanding of the need for the thorough investigation of all relevant factual and legal issues involved in a research task
2. “Demonstrate the ability to undertake systematic and comprehensive legal research
3. “Demonstrate the ability to analyze research findings effectively
4. “Demonstrate the ability to present the results of research in an appropriate and effective manner

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<sup>10</sup> See Talley, *supra* n.5

<sup>11</sup> Natasha Choolhun, *The Only Way Is Information Literacy*, 12(1), LEGAL INFORMATION MANAGEMENT, 44 (2012).

<sup>12</sup> Choolhun, *id.* at 48.

5. “Continuing Professional Development—refreshing the legal research skills required of a modern lawyer<sup>13</sup>.”

Moreover, the British have taken an aggressive approach toward implementation of the BIALL statement; as Bird notes, using

the Legal Information Literacy Standards as a starting point, we are able to provide an agreed and accessible set of standards that can be met across a wide variety of legal education environments—from small tutorial, face to face, to larger group teaching and distance learning. At Oxford we applied the Standards to our compulsory first year Legal Research and Mooting Skills Programme and we felt this helped us to clarify the outcomes we expected from our tutorials, and to reinforce the suitability of the research methods we use in the courses, most of which are taught by the law librarians.<sup>14</sup>

This key distinction, of active implementation of Law Student Information Literacy Standards and Principles within the classroom, is what sets the British ahead of the Americans in this realm. To be sure, there are some structural differences among the systems of legal education in the United States and the United Kingdom that may favor (or disfavor) explicit implementation of Law Student Information Literacy in one jurisdiction over another. As noted earlier: legal education in Britain is primarily an undergraduate endeavor, while the United States trains lawyers in graduate programs of professional education.

The result may be a systemic bias toward Information Literacy-based rubrics in those jurisdictions where law is an undergraduate degree, as Information Literacy had historically been applied to (and focused upon) undergraduate library training; focusing upon Information Literacy among graduate students remains a much rarer topic of instructional colloquy.

Searching the Library and Information Science Abstracts (LISA) database for “information literacy” returns 4807 peer-reviewed results dating back to 1974. Running a search for “information literacy” AND “undergraduate” yields 426 peer-reviewed results dating back to 1990. Searching the terms “information literacy” AND “graduate” produces 207 peer-reviewed hits dating back to 1990. While such searches are hardly dispositive, they do suggest a greater emphasis upon Information Literacy in the realm of undergraduate studies over graduate studies. Nevertheless, a growing focus upon Information

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<sup>13</sup> Natasha Choolhun and Ruth Bird, British and Irish Association of Law Librarians (BIALL) *Legal Information Literacy Statement*, 6(2) J. INFORMATION LITERACY, 132-134 (2012).

<sup>14</sup> Ruth Bird, *Legal Information Literacy Standards: an overview of the developments in the US & the UK*, manuscript on file with the author.



Literacy among graduate students has emerged<sup>15</sup> Whatever the case, unlike our colleagues in the United Kingdom, legal research instructors and stakeholders in the United States seem strangely wary of the term “information literacy,” which is an idiosyncratic response to a formative concept that the rest of the library instruction world seems to have adopted and approved.

#### **4. Blooming Buds and New Fruit: The Turkish Approach to Law Student Information Literacy**

Information literacy, iterated as identifying, accessing, evaluating, and sharing information ethically, remains one of the great challenges in contemporary legal research education. Within this context, some important burdens fall onto law faculties and related NGOs. NGOs have played an important role with respect to legal information literacy studies in Turkey. Universities and NGOs both bear responsibilities with respect to information literacy courses and information literacy standards among law school curricula.

Despite initial study and implementation of teaching legal research for graduate law students in Ankara University in 1979, this initiative ended after one year. However, after the establishment of the UNAK-Turkish Platform of Law Librarians, research in Law Student Information Literacy has gained momentum, spurred in some small part when the US Law Student Information Literacy Standards were brought to the attention of the Turkish law librarianship community in 2012.<sup>16</sup>

The Turkish approach to law student information literacy is framed, as the US and UK approaches, through the institutionalization and foundation of law library associations in those countries. The foundation of Turkish law library associations dates from 2007, as compared with 1906 in the US, and 1969 in the

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<sup>15</sup> See, e.g., Barbara Blummer, Sara Lohnes Watulak, & Jeffrey Kenton, *The Research Experience for Education Graduate Students: A Phenomenographic Study*, 17(3-4) INTERNET REFERENCE SERVICES QUARTERLY, 117-146 (2012). It is worth noting that the ACRL apparently remains silent on the question of whether IL standards are intended for exclusive undergraduate (or, in the case of subject-specific standards, graduate) student use. See, e.g., ACRL Guidelines and Standards, available online at <<http://www.ala.org/acrl/standards>> (last viewed 26 August 2014).

<sup>16</sup> Çukadar, S, and Kahvecioğlu, Kerem. General Outlook on Turkish Librarianship: UNAK-Turkish Platform of Law Librarians. 38(2) INTERNATIONAL JOURNAL OF LEGAL INFORMATION, 139-148 (2010); see also Cukadar, S. and Kahvecioglu, K. *Information Literacy in Legal Education: The Case of Istanbul Bilgi University*, 317 COMMUNICATIONS IN COMPUTER AND INFORMATION SCIENCE, 102-118 (2012).

UK.<sup>17</sup> As such, both the US and the UK have longer histories and experiences with institutionalization of law library concerns than Turkey does. Since the establishment of the Turkish Platform of Law Librarians in 2007, law librarianship has been considered as a special field within the Turkish library community and has achieved significant progress on information literacy. This progress consists of the following developments.

The first legal research course in a Turkish graduate school was taught at Ankara University in 1979, but the first compulsory course related to information literacy in a legal setting was offered to 1st year undergraduate law students by law librarians at Istanbul Bilgi University Faculty of Law in the 2009-2010 spring term. Maltepe and Yeditepe University included similar courses in their curricula taught by law faculty instructors from the beginning of the following (2011-2012) academic year. Hacettepe University Department of Information Management added a course titled "Legal Information Management" as part of a resource-centric approach to information management for library and information science (LIS) students. This is the first such course offered to students in Turkish LIS schools.<sup>18</sup>

As well as the courses mentioned above, of course, all Turkish university libraries have offered traditional user education activities such as library orientation, seminars, workshops, one-to-one research assistance, virtual reference, online tutorials and research guides for several years.<sup>19</sup> It is important to note that most Turkish academic law libraries are not separate entities within their universities; rather, they or their collections are located in within main university libraries. All of which presents a context that makes comparisons between the Turkish approach with US and UK much clearer.

We predict that the number of legal research courses will increase in Turkey within the next years, which will also increase the need for Law Student Information Literacy Standards. It would be beneficial to plan and teach Legal Information Literacy within the framework of Information Literacy Standards. Similarly, increases in the number of law faculties and students supports the need for such standards. In addition to this, Turkey is attracting many foreign and multinational investments and the number of companies with foreign capital is increasing rapidly. According to a recent report, the number of companies with foreign capital has been increased by 29% from 2008 to 2012.<sup>20</sup> This, in

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<sup>17</sup> For further information on the Turkish Platform of Law Librarians *see* Çukadar, S. Türk Hukuk Kütüphanecileri Platformu'nun Oluşum Süreci. 9(2), BİLGİ DÜNYASI, 541, 542-543(2008).

<sup>18</sup> Cukadar and Kahvecioglu, *supra* n. 16 (2012).

<sup>19</sup> Kurbanoglu, S.S. *An overview of information literacy studies in Turkey*. 36(1) INTERNATIONAL INFORMATION & LIBRARY REVIEW, 23-27 (2004).

<sup>20</sup> GDİIFI (2013) Foreign Direct Investment Report in Turkey 2012, Republic of Turkey Ministry of Economy General Directorate of Incentive Implementation and

turn, will increase the need for attorneys that are competent at domestic and international legal research supporting such foreign investment and transactions.

While Turkish law librarians have not yet articulated any specific standards on Law Student Information Literacy, the establishment of the Turkish Platform of Law Librarians, launching the Legal Information Management course at Hacettepe University, and the three courses on legal research and information literacy in separate university law faculties have all been instrumental in laying the groundwork for Turkish Law Student Information Literacy standards. This bodes well for the prospect that Turkish law librarians will set forth such standards in the near future.

The Turkish Legal System is influenced by some of the continental legal systems such as the Italian Penal code, the Swiss Civil Code, the Code of Obligations and the German Commercial Code.<sup>21</sup> Also, as an EU candidate pursuing accession talks for several years, Turkey needs attorneys who have a grasp of EU criteria and legal academics with the ability to integrate changes and innovations into their lectures. These facts demonstrate the need for strong legal research skills for Turkish law students and legal professionals. While writing Turkish law student information literacy standards, Turkish law librarians could benefit from the US and the UK experience by benchmarking and researching needs assessment of law students and legal professionals; a task force or working group formed from law librarians and academicians could be instrumental in meeting these needs.

## 5. Recommendations and Conclusions

Information Literacy in legal studies is becoming increasingly important as law schools around the world focus upon skills instruction and developing students who are more “ready for practice” than in the past. To this end, Law Student Information Literacy has received more attention and focus in recent years, and part of this attention is spurred on by the development of standards and principles in the US and the UK.

We recommend that US and British standards and principles be used as a framework and applied to local needs for constructing information literacy standards for law students in Turkey. However, one key distinction that emerges is that both the Turkish and UK initiatives have emerged directly from classroom experience; legal academia in the US has not merely been slow to adopt the term

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Foreign Investment (GDIIFI) [http://www.economy.gov.tr/upload/63B4C188-DF09-586B-4C6963B55AE3607E/FDI\\_2012.pdf](http://www.economy.gov.tr/upload/63B4C188-DF09-586B-4C6963B55AE3607E/FDI_2012.pdf).

<sup>21</sup> See Çukadar, S *supra* n. 17, see also Öricü, E. (2013). *A Legal System Based on Translation: The Turkish Experience*. 6(2) JOURNAL OF CIVIL LAW STUDIES 445-73 (2013).

“Information Literacy,” but also slow to bring classroom experience to the larger conversation about principles and standards. It is only recently that we have seen classroom behaviors informing the notion of Law Student Information Literacy in the US; while in both the UK and in Turkey, information literacy seems to have emerged out of the legal research classroom. We recommend that the development of Turkish Law Student Information Literacy standards emerge from classroom practice as well as library and information science theory, and that the Turkish standards reflect pedagogical best practices.

We also need also international legal information literacy standards as well as national legal information literacy standards. IALL has begun such an initiative; articulating a set of suggested Public International Law research competencies and performance indicators in the field of Public International Law.<sup>22</sup> We also recommend that the legal research topic that covers information literacy skills be included into Bar Examinations to encourage law students to develop these skills during their legal education.

The development of and application of information literacy standards to legal research instruction is still in its infancy. While developments in the United States and the United Kingdom offer useful models for articulating information literacy standards and performance indicators, it is critical for civilian jurisdictions to develop their own models of Law Student Information Literacy to fit local jurisdictional needs. To this end, we urge the development of Turkish Law Student Information Literacy Standards to serve as a model for civilian jurisdictions, just as United States and United Kingdom developments in this area have served as a model for developing Law Student Information Literacy Standards generally.

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<sup>22</sup> Further information on this project is available at <https://sites.google.com/site/ialleducationcommittee/>