ESSENTIAL CRITERIAS FOR EVALUATING LEGAL RESEARCH THROUGH INTERNET

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I. INTRODUCTION

"I do not see how any one can possibly understand the law or know anything of it, except memoriter, without getting a clear idea of how it is in fact generated in society and adapted from age to age to its immediate needs and uses." **- Woodrow Wilson**

'Research' is an enquiry for the verification of a fresh theory or for supplementing prevailing theories by new knowledge. No research can be purely new, as even original discoveries are an extension of the search already undertaken, being shaped generally as expressing agreement or refutation or plain addition. "Legal research" is not essentially different from other types of research. This too is search for authority to verify some hypothesis and is a continuum. Its issues of enquiry naturally relate to pure law or law in relation to society[3].

In the past few years, many new resources have been put up on the Internet that facilitate legal research work. The sheer number and variety of resources can sometimes make it difficult to determine where to start, how to choose among similar resources, and how to keep up-to-date on available resources. According to the 2014 ABA Legal Technology Survey[4], 50.8% of attorneys reported going to a free Internet/online service when starting a research project. 35.7% reported starting with a fee-based Internet/ online service, and only 11.2% turned to print materials first. This trend away from using print and traditional legal research sources as a starting point is bound to continue as a younger generation of attorneys accustomed to Internet research joins the legal ranks. A vast amount of legal information is available for free online. In addition to government Web sites, there are commercially published online resources, such as West Law and Lexis's Communities, as well as online resources created by academic and county law libraries. Online legal research can be daunting, however, depending on the researcher's familiarity with legal terminology

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[2] E P Ellinger & K J Keith, "Legal Research: Techniques and Ideas", 10 *Victoria Uni Wellington L Rev 1 (1979-1980).*

[3] Rajkumari Agrawala, "Indian Legal Research : An Evolutionary And Perspective Analysis", *25 JILI*, 470 (1983).

[4] The 2014 ABA Legal Technology Survey Report (Published by American Bar Association): It provides a thorough summary of the findings from all six of the 2014 ABA Legal Technology Survey Report volumes: Technology Basics, Law Office Technology, Litigation and Courtroom Technology, Web and Communication Technology, Online Research, and Mobile Lawyers.

and understanding of the organization of legal authority. The increased reliance on the Internet for legal research has its advantages and disadvantages.

The growing popularity of internet based legal research has generated debate among law librarians and other legal professionals on how it is influencing legal research and the law. Some commentators claim that internet makes legal research more efficient and thorough than ever before, while others go further and argue that it reshapes the law itself by releasing attorneys and courts from the rigid organization of print sources. Other commentators, however, claim that internet is no more effective than traditional methods of legal research and that its effects on legal thinking are exaggerated[5].

II. MEANING OF LEGAL RESEARCH

Legal research, which is conducted by a variety of individuals, companies, and institutions, is distinguishable from other types of research in that it is an entire process, not just fact finding. Legal research uses a process of legal reasoning, even though it is on a very small scale. For example, most law in the United States is based on court opinions, because the United States employs a common-law system of justice. No single, predefined set of rules applies to every problem. A myriad of rules and corresponding court interpretations exist. Court interpretation is what keeps the law continuously changing and evolving with society. For the most part, the law reflects societal changes. Each new and unique problem that confronts the courts must be dealt with on a case-by-case basis. Internet based legal research shows how to conduct research and collect information for presenting clients' strengths and weaknesses in memoranda of law.

III. TRADITIONAL METHOD AND MODERN METHOD

A legal research problem or question might be one of the following types:

◆ Finding a state or federal statute

◆ Finding federal or state government documents

◆ Answering a basic legal question.

Traditionally, once a legal question was posed, the researcher began the search for an answer in the local public or law library. The researcher started at the card catalogue and

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[5] Hellyer Paul, "Assessing the Influence of internet-Assisted Legal Research: A Study of California Supreme Court Opinions" *Library Staff Publications*. 5 (2005).

moved on to the stacks to find relevant materials. Now, conducting Internet research from your office, library, or home can be a good alternative to traditional library and book research. We will begin our investigation of Internet legal research by looking at the steps outlined by most legal research guides on how to get started in solving a problem.

Legal research requires a formula for solving a problem. According to most established legal research guides, careful steps make the process go smoothly. These steps include:

• Identifying and analyzing facts

• Formulating legal issues

• Researching the issues

• Updating.

Identifying the facts requires making determinations as to the subject matter, the legal strategy, the relief sought, the parties, and the relationships between the parties, for example. Formulating legal issues requires categorizing the legal problem at hand. The problem might be civil or criminal, on the Centre, state, or municipal level. Each category may overlap with others; a given question may actually involve many complex, interwoven issues. For example, a divorce and a bankruptcy may affect one another. Separating each specific problem and identifying its impact on other problems and issues helps to solidify the tasks to be done in research. Each issue, especially those affecting other issues, should be listed in a concise form. Outlines help some researchers, but are not necessary for others. However, any organizational tool, such as a flowchart or diagram, helps to document the research trail.

Once the issues have been identified, narrowed, and made concrete, sources for legal research are matched up with the problems needing research. As part of the documentation, the researcher must find and note all relevant constitutional provisions, statutes, administrative regulations, and case law. The last step must not be neglected, that is, to Check for any updates to the law.

The rule(s) applicable to a legal problem can be located in various ways. Lawyers traditionally rely on case law, statutes, digests, and treaties. Other typical legal research sources include:

• Decisions of appellate courts

• Executive decrees

• Regulations and rulings of administrative agencies

• Court rules, including the Rules of Civil Procedure, Rules of Criminal Procedure, Federal Rules of Appellate Procedure, and Federal Rules of Evidence; state and local rules may apply as well[6].

Internet Based Legal Research has taken giant steps forward in the past three years. Lexis, the new system developed by Mead Data Central, has moved from Ohio to several other states, and the full-text memory of the system has been expanded. While geography and cost are still drawbacks to wider usage, a nationwide system does seem to be developing[7].

The Internet is a cheap alternative to the use of commercial databases such as LEXIS and WESTLAW for finding primary legal materials such as U.S. federal and state statutes, bills, cases, and regulations. Sometimes these materials are available more quickly on the Internet than on LEXIS and WESTLAW (especially if they relate to the Law of Cyberspace/The Internet, internet Law, Immigration Law, the First Amendment and censorship, Communications Law,Intellectual Property, major criminal and other famous trials, Antitrust Law, elections, or other hot topics). And sometimes, the Internet is the only place where you will find some primary materials, for instance, legislation and case law from foreign countries, treaties involving non-U.S. countries, e-mail addresses and other directory information for legal professionals worldwide, and materials in areas of law that have been traditionally underrepresented in print and electronic legal publications (women and the law, human rights, the rights of lesbians, gay men, bisexuals, and transgendered people, law and literature (for instance, e-texts of Jane Austen's writings), Roman law, law and popular culture, etc.), and non-legal materials that are important to law work or interdisciplinary research.

The Internet can augment an average law library's resources by providing alternate copies of print materials, and information that cannot be found in the law library in print or electronic format. For instance, here are some examples of the types of resources that are on the Internet: census information, uniform and model acts; news; publishers' catalogs; worldwide library catalogs; tables of contents of journals; full text of articles.

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[6] J. Atkinson Brown, *Legal Research via the Internet*, 26 (West Thomson Learning, 2005).
[7] William G. Harrington, "What's Happening in internet-Assisted Legal Research?" 60 *ABA,* 926 (1974).

IV. APPROACH OF LAW STUDENTS AND ADVOCATES[8]

In the information retrieval industry there is a cliche? "Garbage in, garbage out." It means, simply that no system can possibly be better than the material in the data bank. The value of a full-text system, when one is researching case law, statutes, and regulations, is dependent on the kind of law and the quantity of law in the inter net's memory. When a lawyer wants to research tax law, whether he can do so with internet assistance does not depend so much on the technological[9] sophistication of the internet as it depends on whether or not tax law is in the inter net's memory.

All India Reporter[10] and SCC online[11] has contributed significantly to the work of identifying and defining the kinds of legal materials that should be made accessible by computer, and it has sponsored meetings of lawyers and judges to report to them about its activities and to hear their views about what should be done in the area of internet based legal research.

On the other hand, Lexis Nexis is in daily use in a substantial number of law firms, as well as in a number of judicial chambers and other governmental offices. The experience gained in these offices, while perhaps not yet definitive, is sufficient to support some informed comment about the impact Internet based legal research can and does have on the practice of law.

It is generally recognized that internet based legal research is significantly faster than conventional methods. It is not possible to quantify this difference because all legal research is largely a subjective process. One lawyer's method is not another's, and what satisfies one lawyer as a finished job does not satisfy another. Nevertheless, a large body of experience clearly demonstrates that a lawyer working at a computer terminal can accomplish thorough and accurate research much faster than he can without computer assistance.

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[8] Views are personal.

[9] *Supra* note 6.

[10] ALL India Reporter Private Limited is a Non-govt company which is based in Nagpur, incorporated on 23 Mar, 1933. It is majorly in Manufacturing (Paper & Paper product, Publishing, printing and reproduction of recorded media) business from last 87 years and currently, company operations are active.

[11] SCC Online is a venture of Eastern Book Company, Lucknow a publishing house of international repute and an acknowledged leader in the field of law publishing in India for more than 75 years.

The time saved in locating cases, statutes, and other material more than offsets the time the lawyer necessarily spends in the mechanical manipulation of the computer terminal. Even more time is saved after the desired materials have been located by the computer, because browsing in those materials by having them selectively displayed on a screen is many times faster than pulling the books down from the shelves and reading from the printed page.

However, it is observed that too much emphasis has been placed on the speed of computer-assisted research at the expense of full recognition of its accuracy, thoroughness, and certainty. Anyone who has run more than a few searches on a full-text, interactive system has seen it locate cases or other materials entirely pertinent to his problem that were not cited in any index or digest.

In doing research with internet assistance, the student and lawyer is freed from the handicap of the inherent limitation on all indexing. That is to say, he is not compelled to tailor his thinking and his research to the logic and the judgments of the indexer. He tailors his search specifically to his own research problem, and the computer follows his exact instructions as it searches directly in of internet based research. In fact, less than one day's training has proved enough to give the average lawyer and student a working competence. As with anything else, the lawyer improves his skills with experience. He can gain confidence, however, not just by sitting down to formal training but also by working with his own research problems on the computer terminal.

V. ESSENTIAL CRITERIAS FOR LEGAL RESEARCH

In the firms where terminals have been installed, internet based legal research has proved an economically sound proposition. Many lawyers perceive the service to be well worth what it costs. The rest report that internet based research more than pays for itself in time saved and in effective research.

Obviously, much more experience must be accumulated before any final judgment can be made on the economics of internet- assisted research. For now it can be said that the experience to date is more than encouraging.

The social implications are most important in building a system of computer-assisted legal research. Will the system improve the administration of justice? Will it help our profession meet its obligations in these areas? The answer to all these questions is that so far this system has had little impact. But there is every reason to believe it can and will.

Anything that efficiently improves the quantity and quality of the information available to students, judges and lawyers is bound to improve the administration of justice.

If the internet can help lawyers to use their time more productively, it may help them to lower the cost of some kinds of legal services. The profession is be coming increasingly aware that our services are priced beyond the reach of a growing proportion of society, not just the poor but the middle class as well. While few of us can afford to lower hourly charges, the cost we must pass on to clients may be reduced significantly if the use of internet can make each hour more productive. The internet may turn out to be something of an equalizer. It may do something to reduce the disparity between the kind of representation a client gets who can afford unlimited research time and the kind a client gets who can afford very little.

VI. CONCLUSION

Thus, We need a realistic, analytical appraisal of ourselves. We must re-examine our needs and open our minds to the possibility that when it gets down to what full-fledged modern legal research involves, we may have more immediate need than we recognize for material less obviously related to the law than for what is traditionally regarded as legal source material.