TOOLKIT FOR LEGAL RESEARCH

TRAINER'S EDITION

MARCH 2006

TOOLKIT FOR LEGAL RESEARCH

TRAINER'S EDITION

CONTENTS

PREFACE

The purpose of this manual is to teach the basic building blocks of performing legal research within the scope of the Palestinian legal system. The target group for this manual includes both faculty members and experienced lawyers who will function as trainers. They are expected to use the manual as a training toolkit to train law students and lawyers on basic skills needed to perform legal research.

The objectives of this toolkit for legal research are:

- To build basic legal research skills
- To enable students and lawyers to recognize where to begin the research process and how to accomplish basic legal research
- To introduce the students and lawyers to available resources, including using and evaluating the academic value of information available on the Internet

It is designed in chapters to allow the professors or trainers to teach/train one individual module at a time or to use the manual in its entirety. Legal research is a skill that enables lawyers to unlock the key to resources and to competently represent clients. There are no shortcuts and no secrets to this process. It is a process that demands time, a flexible and curious nature and attention to detail. This approach differs from scientific research as the emphasis focuses on building practical skills. Incompetent legal research can have serious consequences for the lawyer which may lead to unethical charges. A lawyer does not want to have a poor reputation due to improper or poor research skills.

By delivering the Training of Trainers (ToT) training using this legal research toolkit, it is expected that the target group will be able to demonstrate the basic legal research skills in a practical, step by step approach for their students and training lawyers. Examples are meant to be only suggestions, and the trainers should feel free to substitute and expand on these using their own ideas and experiences. It is the intent of this toolkit to be a beginning and the first step in building the foundation of legal research.

CHAPTER ONE
Time-saving Research Tips to Remember

It is important to know your law library. Take the time to understand its organization and classification system. Law libraries are organized using special classification systems. The major classification systems are Library of Congress, often referred to as LC, and the Dewey Decimal system. These two systems use numbers and letters to organize the library. It is a code that gives each particular book a special place on the shelf while identifying the type and area of law that it contains. Knowing this system makes it easier for the researcher to find the appropriate law. The Dewey system is less complicated, but it is not able to organize information as specifically as the Library of Congress system. Library of Congress is replacing the Dewey system in larger libraries, particularly in specialized libraries like the law library. Refer to your library and educate yourself on the system that it uses. Introduce yourself to the law librarian and feel free to ask questions. Ask for a tour of the library as this enables you to find your way around quickly. Many lawyers make the librarian part of "the team" when doing legal research as librarians are information experts and are willing to share this expertise. Ask questions as you will save time and gain knowledge. Legal research materials exist in many sources and can be overwhelming without a guide to assist you. Before you leave the library, ask a librarian to offer assistance in learning how their library catalog is organized. The catalog contains the information that you need to access the library's materials by using subject, author or other known contact points. At one time all catalogs were in a book or paper form, but the library field is increasingly putting this information in an on-line format.

A researcher always takes careful notes. It is very important to make a list of all the materials that you used while researching---even the material that was not helpful. You may find that a few days passes between research sessions and cannot remember which sources you have already checked. Refer back to your notes so that you are not covering the same research ground that has already been done. Of course, take detailed notes on all the relevant law that you find. These notes should include the classification number, substance of what you discovered, and a complete citation. Cultivating this habit will save you time in the future. If you decide that it is important to cite directly to a source, your notes will reveal the location quickly.

Many researchers find it helpful to make a list of relevant materials using the library's catalog and collecting these before beginning their research project. Once the research begins, it is easier to refer back to materials that are on the table rather than to keep jumping up and searching through the catalog or going into the stacks to retrieve another source. One source that is always helpful to have close is a legal dictionary. Legal terms are used precisely and exactly. Make it a habit to always look up those that you are unsure of.

The most difficult part of legal research is feeling comfortable that you possess all the knowledge needed and are finished. This is a question that becomes easier as you practice research skills and can only be answered by you, the researcher. A few questions to help you in making this decision are:

- Have you logically answered the question?
- Are the laws and facts you found pertinent to the facts of your situation?

- Do your materials support your answer?
- Are your supporting materials up to date?
- What is the authority of your materials?
- Can you explain your reasoning in writing?

CHAPTER TWO
Basic Steps to Legal Research

To research strategically, it is important to have **a plan**. Devising a plan before you begin enables the researcher to save time. This research plan may vary from research project to project but an overall strategy may consist along the lines of the following steps:

Step One:
Try to formulate your legal question(s) by examining the facts and issues of the project. Break the question(s) down into specific components by first isolating the facts.

> **Case Study:**
> It is raining and late at night. Ali is driving very fast as he is anxious to arrive at home and see his family after a long day. There are few people out, but suddenly it appears that someone is running across the street. Ali applies the brakes on his car and slides into a local store, damaging the front door and shattering a window in the store. He gets out and examines the damage to the store and his car. He sees the store damage and looks up and down the street, but he sees no one, not even the pedestrian he thought was crossing the street. Ali leaves a note on the door with his name and phone number admitting to the damage. His car has very little damage so he gets back in and drives away. The next day he learns from the store manager that the store burned down, and he wants Ali to pay to replace it. Is Ali responsible?

> **Class Activity:**
> Break into small groups. Each group appoints a timekeeper who keeps track of the time allowed to list the facts—ten minutes. The group also appoints a reporter who will share with the class what they discovered. Allow ten minutes for the groups to isolate the facts. After ten minutes call for their attention and have them report to the class. Once each reporter has had an opportunity to share, have each group take five or ten minutes to examine their list and underline only the facts important to this case. Reporters report to the class at large and need to be ready to defend their group's decisions.

> Facts are not the only elements in a legal problem. It is necessary to isolate specific issues and be ready to defend these. Issues are the key legal topics that apply to the problem. A formula for an issue is facts in question plus issues. A lawyer begins with facts and leads to the law or can decide to reverse this equation. Try analyzing the above research problem using the following questions:

> **Who** is involved?
> This includes people, not necessarily their identity but their role in the problem, or entities such as a government institution or corporation.

> **What** is involved?
> This includes physical items as well as activities and intangibles that cannot be touched.

When did the event occur?

    Include not only the time but also the sequence of events.

Where did the event occur?

    Think about the precise location as well as its significance.

Why did the participants act in this way?

    Analyze their motives and/or states of mind.

Class Activity:

Apply the above case study in small groups and answer the above questions. Which issues or questions will need further research? Are there more questions that need to be answered? Be prepared to come back to class and report on your answers.

Important notes for the Trainer:

This activity should be done using small groups, a reporter and a timer. Give the groups sufficient time to develop their skills in analyzing the problem.

Once the reporters come back, ask questions on why the group made the decision that they did. Did their ideas on the case change once they were looking for issues and not just the facts? Ask them questions that change the fact pattern. Does it make a difference if Ali was driving slowly? Does it make a difference if there was a witness? What if the accident occurred during the day instead of the night?

Encourage all feedback. Remind students that a legal question(s) may change as research progresses. Additional facts may change the issue. It is a lawyer's responsibility to remain open to new issues as research progresses and thought patterns often change

After a group reports, ask the other students their opinion of what the group shared. Keep questioning and encourage different points of view amongst the groups

Step Two:

Categorize your research question at the beginning of your research if possible. This helps you define what type of law you need to research. Is the previous case study civil, criminal or administrative law? Is it possible for you to know that with the number of facts that you possess? Can you identify any key legal terms from the above case study?

Class Activity:

Important notes for the Trainer:

Encourage the class to brainstorm and call out legal terms from Ali's case. Write these on the board. Brainstorming means that there are no ideas that are considered wrong. Get active participation by writing down everyone's ideas. All ideas are good.

Step Three:

Secondary resources consist of many types of background resources that may be helpful to your research. This legal material is found in many different sources with each varying in the weight of its authority. The main purpose of these is to give the

researcher an overview of legal issues. This is an excellent place for the researcher to begin when looking for an introduction to an area of law, especially if it is unfamiliar. Many answers to legal problems depend upon variables that background resources can help identify. By examining the larger legal pattern first, it may alert the researcher to sources of primary law that need to be consulted. These sources vary from legal treatises written by acknowledged experts to law journals published by law students to Internet sites. These will be examined in more detail in Chapter Four and Chapter Five.

Step Four:
Primary authority is the law of the land. Primary authority in one country is not the same as primary authority in another. For the purposes of this class we will concentrate on Palestinian primary authority. According to the Palestinian legal system the primary authority includes:

- The law specifically and narrowly dealing with the issue in question. This includes regulations, decrees, decisions and orders. According to the Palestinian law the specific law/articles overrides the general one. The Palestinian legislative council has not yet agreed on the terminology used to interpret what is known as regulation law.
- The law representing the family of the law, whether it is civil, criminal or administrative law.
- The constitution/basic law as presently represented here in Palestine. The High Court in its capacity as a constitutional court, and until such time when the constitutional court is established, can declare a law or an article of a law null and void if it contradicts the constitution/basic law. A clear example was the High Court Judgment to nullify the Judiciary Law because it contradicted the constitution. They went far by nullifying the law and not the contradicting article.
- Sharia doctrine
- Sharia principles
- Justice principles
- Customary law that is not contradictory to the law under question, providing the law under question is established by time and frequently respected and not contradictory to the public order of public conduct. The customary law shall apply to only the area it is established in and frequently respected.
- For guidance and interpretation of the law, the judgments of the courts, especially the high court, and the legal doctrine.

CHAPTER 3
Legal Language and Research Terms

It was mentioned in one of the opening chapters how important using legal dictionaries are for any lawyer. These books provide specific information on legal terminology. Some are more comprehensive than others and provide definitions for phrases as well as words. Examine these to determine which source meets your needs.

Why are these so important? There are several reasons. First, many words have legal definitions that vary from their non-legal definitions. Legal terminology differs from ordinary conversation and because of this the definitions of ordinary words may take on a different meaning within the parameters of a legal context.

Student Activity
Important notes for the Trainer:
Ask the students if they have any suggestions for words having definitions that may differ in a legal context. Write them on a flipchart or board. See if there is agreement amongst the students on the words listed. Have them defend their answers. Encourage discussion. (If there is not an immediate student response, give them time to think. It may be helpful for them to break into groups of two or three by turning to their neighbors and sharing thoughts. After five minutes, ask for ideas and write these on the board.)

The second reason to utilize a legal dictionary is to help identify additional legal research terms and issues that may not have been considered. Locating these terms can help the researcher when using an index or table of contents in a legal treatise or as a subject in the library catalog. This method encourages a broader perspective to be considered and helps a researcher "think outside the box."

Numerous legal experts offer methods for breaking a legal research problem down into words and phrases that could be helpful. The most complete method is one used by law professor William Statsky. This approach uses a diagram—called a Cartwheel—that prompts the reader to generate different categories of law. Identify your key word and put that in the center of a circle. Begin to use word association to identify other words or phrases that "cartwheel" out from it. Beginners to this method will often use the index and table on contents to help them use this method. Upon gaining familiarity with certain areas of law, lawyers find themselves employing this method on their own. But, it is always a good idea to go back to using a law book if unsure legal ground presents itself.

> Statsky "Cartwheel" Method
> 1. Identify all the major words from the facts of your problem
> 2. Use the index and table of contents to look up these words
> 3. Identify and look up the broader categories
> 4. Identify and look up the narrow categories
> 5. Identify the synonyms and antonyms of the words

6. Look up these words in the index and table of contents
7. Identify and look up procedural terms related to words
8. Identify and look up agencies that are related
9. Think about words that may be "long shots."

Trainer Example:

Write "Wedding" in the middle of a circle on the board or flipchart and engage the students in helping you locate words for the following bolded areas. Draw a spoke out to connect each area to the terms that they call out. Encourage their efforts and allow them to challenge each other.

Example:

Wedding

Broad terms: celebration, ceremony, ritual
Narrow terms: Civil wedding, church wedding, arranged wedding
Synonyms: marriage, nuptial
Antonyms: annulment, divorce, separation
Procedural terms: petition, authorization
Agencies: License Bureau, Justice
Long shots: dowry, common law, alimony, paternity, consent

Student Activity:

Break into small groups and give each group a different legal term, a marker and a several sheets of large paper. Have them choose a timekeeper and a reporter that is responsible for everyone participating and to write down the terms. Allow each group fifteen minutes to complete this project. Encourage creative thinking. Call everyone back to the big group and share their work.

Using the second piece of paper, have each group reorganize, but this time give them a law book that specializes in their legal term. Once again allow fifteen minutes before coming back to the large group and have groups share their second "cartwheel" activity. Open up a discussion with them concerning how much easier it was to generate terms when a resource was used.

Possible cartwheel selections for the Trainer:
contract
labor
injury
warranty
will
insurance

CHAPTER 4
The Internet

Legal research is becoming more and more automated. Good lawyers must have computer skills to be competitive and thorough in their profession. The Internet is a world-wide source for legal research as it connects networks that share common rules for access and transfer of stored data files. There are basic rules and protocols that transfer this information to the researcher. The most important is a type of computer language that is called hypertext markup language, better known as HTML. This supports the Internet and allows the Internet browser to jump from document to document and from site to site. There are basic resources that are free and some that are accessible only through paying a fee. Check your law library to see what is available to you.

Opening the World Wide Web is accomplished in different ways. Sometimes it as simple as typing in the electronic address of your law library—www.birzeit.edu—and you will be at the door to an electronic law library. Other times it can be more helpful to access a search engine and utilize this source to type in a search. Each database has unique ways to access their information, but there are basic search strategies that can be used.

Search Engines

Search engines are software programs that facilitate a search for relevant materials on the Internet. Many computer users are familiar with Google, but there are hundreds of search engines available on the Internet, some specializing in legal resources only. These search engines index all the words in a document, except for common ones such as "and" and "the", and make them available at the touch of a keyboard. It is mind boggling to imagine how many documents exist in hyperspace. The key to searching is to narrow the terms so the user does not access thousands of documents which only add to the confusion of doing research. Look in the indexes of general search engines, like Yahoo and Google, and locate the specific areas that pertain to the law. Searching in these special databases narrows the material that is produced from a search. Examples include:

> http://muqtafi.birzeit.edu
> http://lawcenter.birzeit.edu
> http://lawcenter.birzeit.edu/about/links.html
> http://www.findlaw.com
> http://www.lawguru.com

Always read online the search engines area for Advanced Searches. These are very helpful in narrowing your search methods. Be aware that different search engines demand different searching techniques so remain flexible. Click on the help feature. This is usually located next to the box where you enter your query. Nearly every search engine has a tutorial online available at a click of the mouse.

Concepts and Terms

Some Internet databases use what is called a Boolean search method. This method enables the researcher to narrow the search to specific words. Look at the following examples:

Single-word term using "wild card" characters
Key the word: **contract**
This search delivers all instances where that one word appears.

Using the "wild card" characters as tags in your searches expands the roots of words.
The asterisk (*) serves as a word expander.

Key the word: **contract*** and you will get contracts, contracted, contractual, etc.
The term: **manag*** would deliver manage, manages, manager, management, etc.

Another often used wild card is the (?) which is used as a place holder. For instance, if the search was concerning women rights but the search wanted to get terms including woman and women, the correct format would be **wom?n** which would assure getting cases involving women or woman or those that used both terms.

Several-word phrase
Quotations around a phrase produces every document that contains the words in exactly that order.
"contract for deed"
"freedom of speech"

Multiple terms for phrase
Keying in **lawyer or attorney** will retrieve documents containing either lawyer or attorney in it.

Practicing key word searches and combining different techniques is the sign of a good researcher. If one method doesn't work well, try another. Choosing the correct terms and concepts is a skill that takes time to craft and perfect.

Evaluating Internet Web Sources

Good information abounds on the Internet, as well as half truths and speculative and downright false information. How is a researcher to know which of the millions of available web sites are credible and which ones are not? It's true that anyone can publish a site. Unlike print material, web sources do not have to be professionally accepted and edited in able to be published. Anyone can put up a site and proclaim to the world that their material has value. Good researchers learn to use search engines to their advantage. Reliable search engines have listings of sources for specific topics that have already been checked by their staff. Much of the burden is with the

researcher, though. It is up to the individual to identify the web site and examine it for credibility.

There are many types of web pages on the Internet. There are sites that give us information. We can find something as simple as a definition or as complicated as a research paper. Personal web pages offer a place for families to post pictures or for someone to blog about a topic they want others to know more about. Political interest pages inform us about events happening in the world. Marketing pages offer us an opportunity to learn about a product and or even to purchase it. Entertainment pages provide us information about movies or books or places to visit. We can locate hotels around the world and events that are coming soon to our area.

Different types of search engines abound. There are hundreds of search engines. Many of these are specialized and enable us to narrow our searches for specific information needs. Yahoo is a popular search engine that tends to be useful for simple searches of a wide variety. Google currently accesses the greatest percentage of the World Wide Web, but this may change in the future. It is a researcher's responsibility to be aware of these and remain up to date on those that are the most helpful for our personal needs, keeping in mind that every day brings new changes--- and new search engines. It is a challenge to use these search engines to our advantage. Always start general when using a search engine and then craft the searches to the more specific.

Redefine searches whenever possible and try different search engines. Read the directions for each search engine and use to your advantage. Strive to limit and control the amount of information. It is always helpful to read the directions for doing an advanced search and all the Help pages. <u>Look for "cheatsheets" that list all the search techniques in a helpful form.</u>

It is helpful to identify the website source. Look at the end of the address or URL for the home page. What is the extension? This can help us decide on its validity. If you cannot easily pinpoint the purpose of the website or its source, find a more reliable one. Does it contain one of the following extensions?

> .org or organization
> .edu or education
> .gov or government
> .net or network
> .us or United States

One way to begin the process of evaluation is by asking the following questions:

- Who is the creator?
- What is the purpose?
- Who is the intended audience?
- Is the site affiliated with a business or university?
- What is the authority or expertise of the individual or group?
- What else comes up when you type the author's name into a search engine?
- Does the source have an agenda?
- Does the site provide a list of sources or a Works Cited page?
- Can you locate any of the source material? Is it reliable?

- Are there links to other credible sites with more information?
- Does the site provide a link for emailing the author or webmaster?
- Does the material show signs of research, such as references to other sources, hyperlinks, footnotes, a reference page?
- Does the author consider opposing points of view?
- Can you locate a date on the web page?
- What does that date indicate?
- When was it written or last updated?
- Does the information cover the most recent changes or advances in the topic you are researching?

Important notes for the Trainer:
Give the following checklist to your students and have them work in groups at the computer lab. Have them examine two or three websites and answer the following questions:

Evaluation Checklist:
Is the information reliable and free of errors?
Is there an editor or someone who checks the information?
Is there an author? Is the page signed?
Who sponsors the page?
Is the sponsor a reputable one?
Is there a link to information about the author or sponsor?
Is there a way to determine its origin?
Does the information show a minimum of bias?
Is the page designed to sway opinion?
Is there any advertising on the page?
Is the page dated?
If so, when was the last update?
How current are the links?
What topics are covered?
What does this page offer that is not found elsewhere?
What is its value to your research?
How in-depth is the material?

Bring the students back to the classroom and instigate an open discussion about what they discovered about their websites. Encourage feedback and ask questions making sure that they evaluated the websites that they examined. Have each group share the best website they discovered with the class and defend their choice.

CHAPTER FIVE
Secondary Law Resources

A secondary resource offers background and is a broad introductory source for legal research. If a researcher is unfamiliar with an area of the law, this is an excellent place to begin research. These can help offer the BIG picture of the law before plunging into primary areas of law. Many legal research questions depend upon a number of variables and conducting a thorough background search can alert the research to these variables. Often, these sources will help narrow the issue and aids the researcher in making a decision on which questions need to be resolved. Fortunately for researchers, nearly every major area of the law has been discussed and summarized by experts in many different types of books, periodicals, articles and computer databases. For the purpose of this class we will discuss and examine several categories.

Legal Encyclopedias

Legal encyclopedias cover a wide range of topics and give general information in an alphabetical manner, very similar to a nonlegal encyclopedia. Some of the topics are rather narrow and others are more general. Within each topic the information is usually organized by subtopics into sections that address legal rules and principles that are involved in this area of the law. Generally, the opening topic deals with a discussion of the substantive law that is involved and is followed by sections dealing with procedure and remedies. Each section consists of text which is usually extensively footnoted. These footnotes refer to supportive material and can be very helpful to the researcher. Encyclopedias are used as finding tools and not as authoritative law. They do not critique or suggest legal reforms but state the law. These are most useful at the beginning of a research project. Use these when trying to seek a big-picture and to fill in knowledge gaps. Browse through the index and topic list to gain a feel for where the legal problem fits in the scheme of the law. Consult the topic outline. The index is often located in separate volumes, often shelved at the end of the set. These indexes can be complex and detailed. Allow time to look up suggested alternative terms and cross references. Once the useful topic is identified, read the discussion of the subject. This is for the purpose of discovering the following two items:

1. Pertinent legal rules, principles and definitions
2. References to other authorities

Because researchers need to always look for the most current and up to date material, check to see if the encyclopedia has pocketparts at the end of each volume. A pocketpart is a small paper section that is inserted into the back of a bound volume and updates the material of this volume. It may refer to the section of law being researched and offer additional text or footnotes.

Important notes for the Trainer:

If time allows, break into small groups and give each group several volumes of encyclopedias to examine. Encourage them to choose a topic covered in their volume

Treatises

A treatise is a book that covers one subject at length. The subject can be broad or rather narrow. It is the author's decision. Treatises are usually written by private authors, such as law professors or attorneys, experienced in a specific area of the law. Most treatises are available only in print and often are one volume but increasingly treatises are several or multi-volumes. Some are published in a looseleaf form to enable frequent updating.

Treatises usually contain three parts:
1. Scholarly material with footnotes containing supporting citations
2. Finding tools, such as tables of contents, indexes, etc.
3. Miscellaneous features such as appendices containing important information

Treatises explain the law, set out the rules and policies of the law and offer examples. Some treatises critique and offer legal reforms but not all. Usually treatises are organized by chapters and either sections or paragraphs. Treatises are often analytical as well as descriptive and can be an ideal beginning for researching an area of the law that is unfamiliar to a researcher. In addition, treatises point the way with an abundance of references to other secondary sources and primary sources. Check to make sure that the treatise you are using is up-to-date. The copyright date is a clue as are updated pocketparts or supplemental volumes. Many treatises are written and not updated regularly. This may be a problem, but it also may not make a difference depending upon the legal issues that are involved in the research. Treatises vary widely in their level of expertise and some are considered more credible than others. Take time and locate the best one in the subject area.

Most treatises are still only available in print, and it will be necessary to use your library's catalog to find these. Search by title, author or subject area. Once the call number is located, go to the shelf to find the book. Browse the adjacent shelves to find other relevant treatises on the same subject. It is also a good idea to ask a librarian, colleague or professor for possible titles.

Consider the following when selecting the best treatise for your needs:
1. Coverage:
   Select the treatise that gives you the amount of coverage that you desire, whether that is detailed or general. Only you know if you desire a critical analysis or a more descriptive discussion.
2. Organization:
   Treatises vary greatly in a variety of ways but one of the most important is if they treat the law chronologically or topically. Table of contents and indexes also vary.
3. Currency:
   Check the date of publication and be aware of how recent the material is. Sometimes it is important and in other areas of research it is not as important. Check to see if there are pocket parts or supplements that update the material.

4. Accuracy:
   Choose a credible source. If you find mistakes in dates or incorrect footnotes, go find a different treatise.
5. Reputation:
   Some treatises are known to be classics in their field and considered very credible in their analysis. To determine, consider the following items:
   a. Reputation of author: Look for a treatise by an expert in the field
   b. Reputation of publisher: Your law librarian will be able to help you determine the credence of different publishers.

Important notes for the Trainer:
If time allows, break into small groups and allow each time to peruse several treatises and examine table of contents and indexes. Conduct a short discussion after this activity asking the students if they liked or disliked the treatise that their group examined.

Law Journals and Legal Periodicals

Law journals and legal periodicals provide commentary on a range of legal subjects over a period of time. Articles are written by professors, lawyers, lawmakers or law students. Because the law is constantly changing, legal professionals are always writing articles discussing and analyzing the law. These articles are helpful for identifying the current state of the law, for critiquing current law and for advocating legal reform. Many articles cover their subject in great depth. Usually there are many references to primary and secondary authority in the footnotes, and these can be especially helpful to the researcher. The special function of law reviews is to introduce serious and creative legal thought and critiques of present law and proposals for legal reform. Because these articles can be published quickly, you may find a timely discussion of current law. Of course, it is well to remember that these are not updated and can become dated very quickly. There are several different types of material that fall into this category:

1. Law reviews or law journals are generally published by a particular law school and cover a wide range of legal topics. The students serve as the editors and they select the articles, verify the authority given for the subjects, assure the accuracy of citations and edit the author's writing. Generally, a new volume is printed annually in two to six issues. Articles vary from long pieces with extensive citations written by lawyers, judges or professors to shorter articles called essays. At times an article is followed by short discussions labeled as commentaries. Student pieces are often short and called commentaries or notes. Book reviews of newly published legal books and treatises offer suggestions for new purchases.
2. A special-interest legal periodical focuses on a specific area of the law. These tend to be more practical than theoretical and can be published by special interest groups or associations of lawyers. Examples would be a specialization in taxation, environmental, labor, or human rights law.
3. The bar association journal is published by a lawyer organization and tends to be more practical than theoretical. These often report legal developments such as changes in court rules and notifications of meetings or upcoming CLE programs.

4. Legal newspapers typically report on new court decisions and changes in the law. They often carry legal notices mandated by law as well as feature stories on people in the legal field.
5. The Internet has become a source for legal topics and has some journals that are only published online. These e-journals are becoming more and more popular in today's culture. Some do not share the same credibility as published law journals and it is important to evaluate each one.

To research a law review, contact your local law librarian to see what type of indexing system the library uses. The traditional method is to search the table of contents of each issue. There are now paper, CD-ROM and other indexes available which allow you to search by subject, author and title. The librarian will help you with what is available to you. If you are using the Internet, the only way to find a relevant article is through a keyword search. This means that you need to construct a tight search, and this can prove frustrating. Also, most journals post only their most recent articles, going back a year or two.

CHAPTER SIX
Primary Sources

Primary sources are those that contain law that everyone must follow. These are mandated by law. Because of the tumultuous history involved in the history of Palestine, Palestinian laws have numerous primary sources. There are layers upon layers of law and codes that have been left behind, many of which are still in effect today. There are essences of three legal systems: common, civil and Islamic. As a result there are often internal conflicts of the law. These are published in different official papers issued by the governing bodies and eras that have marred the Palestinian history, but some (Hanafi Fiqh) are not published in any gazette. There are also different primary sources in the West Bank in comparison to those of Gaza. Palestinian lawyers primarily use the following sources:

Ottoman era:
>The Ottoman era began in 1517 and continued until 1918. This mirrors Islamic law but also mirrors a French influence.

British Mandate:
>Since 1917, under the British mandate, Ottoman statutes were retained and supplemented with principles of English common law and equity.

Jordanian era:
>Jordanian law amended, and later replaced Ottoman and British mandate with the Jordanian rule of the West Bank in 1948.

Egyptian era:
>The Egyptians administered the Gaza Strip since 1948 as a separate entity; and unlike West Bank under Jordanian rule, kept much of the Ottoman and British mandate Legislation in force. Legislation for Gaza was promulgated by the Egyptian government of Gaza, during said era, and only limited Egyptian legislation was applied in Gaza.

Israeli era in West Bank:
>Israeli Military Proclamations and Orders issued by the Israeli occupation authority have amended legislation applicable in WBG in almost every sphere. Though in occasions different, most legislation adopted by Israeli occupation authority was either the same or very similar, in a way unifying legislations in the two parts of the territory occupied in 1967.

Palestinian Authority:
>Since 1994 these are published in the Palestinian Official Gazette. The ARKAN produced CD included only PA issued legislation.

The above mentioned resources are available at Al-Muqtafi: http://muqtafi.birzeit.edu

CHAPTER SEVEN
Citation

Lawyers traditionally cite to authority—primary and secondary—in order to give weight to what they consider to be pertinent and supporting material in their documents and research papers. This language or code is called legal citation. A legal citation is a method of helping your reader find the sources you refer to in your work. Each different source tends to have a slightly different format, but the purpose remains the same.

1. Allows the reader to find and verify the sources.
2. Shows weight and persuasiveness of the sources.
3. Shows type and degree of support.
4. Demonstrates the paper is well-researched
5. Acknowledges the author

Take care to always follow the "rules" of citation so that the reader can refer back to your source material if necessary. This standard language allows a writer to lead their reader through these references with a minimum of interruption. At first it can be confusing for you as a writer but after time it will become easy for you to follow the rules.

Remember to always support each thought that is not yours with a citation. If it is a direct quotation, enclose in quotations. Otherwise, you may paraphrase what the author has said but still acknowledge the author's thoughts with a citation.

Examples of one citation form, used by the Institute of Beirut, are included in the Addendum of this legal manual and were provided by Ms. Liana Quider, the Head Librarian of Birzeit Institute of Law Library. There are different models and standards of citation form. It is important to remain consistent and use one style throughout the research process. Electronic examples follow:

Internet
American Bar Association, Section on Legal Education and Admissions to the Bar, *Legal Education and Bar Admission Statistics, 1963-2001*, available at http://www.abanet.org/legaled/statistics/le_bastats.html
(last visited /Aug. 14, 2002).

CD-ROM
Dep't of Veterans Affairs, M21-1, *Adjudication Procedures* § 2.03 (Michie Veterans Benefits Manual and Related Laws and Regulations CD-ROM, Aug. 2002).

Footnotes

Footnotes provide the reader with information on your source which includes the sources of your authority, a list of recent interpretations of leading cases, or an elaboration on an argument already introduced. Readers do not always read the footnotes so do not put essential reader information in them. Keep them simple and

containing only enough information for the reader to progress a step further if they wish. Use the standard form required by your university or Bar Association.

Important notes for the trainer:
Compose a game with citations. Design a tic tac toe type of big square divided by three smaller squares across and down. This totals nine smaller squares each being numbered except for the middle square which is "free." Within each square write a citation---some of these will be correct and some of these will not be correct, but hide the citation from the class. Divide the class in two sections and tell them that each section needs to elect three students to represent them in this game. Toss a coin to choose which team begins. This team winning the coin toss begins and chooses a square. The trainer reveals the citation under the square. The team has 60 seconds to determine if it is correct or not. For a correct decision in this area, the team will receive five points and can mark the square with either an "X" or "O" depending upon which team they belong to. When a team has three marks in a row, they are declared the winner. To make this more difficult, make all of the citations incorrect. The team must correct the citation before they can put their mark in the square. Three marks in a row means the team has won!

CHAPTER EIGHT
Critical Thinking

We live in an information-driven society which demands us to critically think about acquired knowledge. Our goal is to evaluate the information to find the meaning in the knowledge and to reach an educated opinion about it. Only then can we apply this knowledge to new situations. To accomplish this goal, it is important to build upon knowledge in order to progress to the next level of maturity.

As a problem solver for clients and society, the lawyer needs to exercise legal analysis to arrive at a solution. Simply put, this involves the following:

Fact investigation leads to
Research which leads to
Reading the law which leads to
Reasoning about the application of the law which leads to
Writing or **orally** presenting the analysis

Important notes for the trainer:
Have students write a short essay keeping these five elements in mind. Capitalize on student's prior knowledge and force them to evaluate that knowledge in order to reach a meaningful conclusion. Encourage them to use a situation in their past when they have had to apply the above bolded words in a life decision. This could be a decision involving which class to take or which restaurant they want to choose for their birthday celebration or a similar life situation. This could be done during class or as an assignment. Once the assignment is completed break them into groups of two and read each others essays. Once they have read them, encourage a peer review session and ask them to give each other two or three suggestions for improvement and two or three positive suggestions. Assure them that this is only an exercise. Keep the papers and at the end of the Legal Writing course have them write again on their original topics. Distribute their original papers and encourage them to compare their progress.

Critical thinking demands examining a topic and looking at the details and not taking for granted what others say or write about it. To be able to exercise critical thinking, it is necessary to cultivate a level of knowledge about the topic and evaluate the appropriate evidence and examples. Critical thinkers track a line of reasoning through to its logical conclusion. Be aware of hidden bias or assumptions. Does the evidence and argument support the conclusions? This thinking process is question-guided. It takes time to know the appropriate questions to ask but the general procedure is to question, question, and question again.

Simply reading and writing down the facts is not enough for legal professionals. Lawyers need to choose a source, find material that supports their argument, and determine that the source is accurate and reliable. Critical choices are evident on many levels. What information is the most important to this argument? What is it that I think about this subject? How did I arrive at what I think? What are these assumptions based upon? Are they valid? How can I utilize what I know and convince others of what I think?

To develop critical thinking skills we need to examine Bloom's Taxonomy of Higher Thinking. Bloom categorized thinking into the following six processes:

Knowledge
Comprehension
Application
Analysis
Synthesis
Evaluation

According to Bloom, we must master one level of thinking in order to progress to the next one. Putting this into the context of legal writing, let's consider these six steps. First, it is important to **know** the facts of our problem. We begin to **comprehend** what these facts mean in the context of the law through researching. **Applyin**g our facts to the letter of the law may mean more researching in related areas.   Now, it is important to **analyze** how the law and the facts are similar and different and what this means for our client. Our **synthesis** of the problem means summarizing the key facts and legal rules to formulate an opinion from an unbiased viewpoint. Finally, we **evaluate** the situation and arrive at a logical conclusion for our specific problem.

Students often graduate from university and still do not know how to think. They understand how to learn but not to think. Education systems do an excellent job transmitting information to students but often fail to teach them how to learn. Lawyers do not need to simply memorize isolated facts when future facts may well replace these. The emphasis should be on teaching them how to think. It is important for the profession to think in a reasonable, reflective, responsible and focused manner that discerns what valid and honest information is.

CHAPTER NINE
Basic Elements of Effective Legal Writing

Introduction:

E.M. Forester said: "How do I know what I think until I see what I say?"

Writing helps the writer discover what he knows or thinks about a subject. Reading and gathering information deposits bits and pieces of thoughts into the mind, but it is not knowledge until it is critically examined and evaluated. This is what the legal profession accomplishes when they practice analytical skills

Remember that the purpose of effective legal writing is communication. The lawyer needs to communicate with his clients, the court and to colleagues. Content is important, but if you do not communicate this in a clear writing style, you will not be successful. Apply the same rigor to your writing as you do to analyzing your source material.

Language

Practice using clear and concise language when writing. It is not important to impress your reader with convoluted thought patterns. They will be more impressed when you use everyday language and stay away from flowery legal phrases that contain legal jargon. It is true that legal writing needs to be more formal than writing a letter to your friend but do not take on a pretentious tone. Practice using specific and concrete words that describe what you intend to communicate. Keep the verbs in an active voice and let them do the work of the sentence for you. Short sentences work better for complicated thoughts so you do not lose your reader. Keeping focused and to the point allows the reader to understand your point of view. Many lawyers like to say several times what they could state just once. Verbally and in writing they abuse and bore their audience. Legal writers need to respect their reader's time and not force them to read ten pages when four would be sufficient. When you think that your work is done, go back and remove all extra words. Make sure that each word is necessary in making its point.

To summarize the writing process, it should be accurate, brief and clear. Stress the important ideas and carefully lead your reader to the logical conclusion. Good editing skills guarantee a written product that is clear and concrete.

Paragraphs or Chapter Construction

Each paragraph should contain one thought. It is often effective to use the first sentence to introduce your topic. Build the following sentences to connect related thoughts. Do not jump back and forth with ideas or thoughts. Sometimes paragraphs become so long that the reader forgets what the topic of it was. Especially when exercising legal writing, paragraphs should be short enough to appear readable and not overwhelm your reader. Avoid long, indented quotes which may allow your reader's attention span to wander. By the time they return to the paragraph, you have lost them.

When you are doing legal briefs or memorandums, it may be helpful to use descriptive headings that tell the reader what to expect, such as:

- Statement of Facts
- Applicable Statutes
- Discussion
- Argument
- Conclusion

Besides keeping in mind using clear and effective language and constructing good paragraphs, it is essential to think about writing a legal research paper as a whole. Once you have accumulated your research and feel confident about your material, it is time to put the pieces together. The steps to an effective legal research paper are simple and can be summarized as follows:

1. Research
2. Outline
3. Organization
4. Draft
5. Revise

Outline

We have already examined the methods of doing legal research. Let's look at constructing a good outline. A good outline is basic in helping the researcher organize the collected thoughts and ideas residing on paper. An outline should be the skeleton of the research paper and the guide to writing. Once you have these "bones" in place concerning your question or thesis, you can "flesh" out the final body or paper. Through the process of organizing your outline, you construct a strong introduction and proceed step by step introducing your ideas and end with a thoughtful conclusion. An outline is the vehicle that allows you to transport your ideas, step by step, and keeps you, and your reader, on point and focused. If you identify a weak area, consider changing or strengthening it. If you cannot make it work, go back to do more research or consider deleting this portion. You may go through this process several times before your work is completed.

Think of an outline as a two step process. The first step is to determine the purpose of your paper. Identify the audience of your paper and constantly keep that in mind when you are doing the work. Develop the thesis of your paper and remain focused on it. The second step is to brainstorm and list all the ideas that you want to include. Organize and group related ideas together with quotations that you consider significant. During the process of ordering and arranging material in sections, it is helpful for developing thoughts to begin with the general or abstract and proceed to the specific or concrete. Label and create main and sub-headings to assist you in the journey of writing.

Remember an outline is:
- A logical, general description
- A summary

- An organizational pattern
- A visual and conceptual design of your writing

And the purpose of an outline is to:
- Help organize your ideas
- Present the material in a logical form
- Show the relationships amongst ideas in your writing
- Construct an ordered overview of your writing
- Define the boundaries and groups

Using the following guidelines, construct a concept map which serves as an outline but also helps you organize your thoughts.

Concept Map

1. Create a concept map by writing down everything you know about a topic with the major idea in the middle and branches extending.

2. The concept map helps you to organize the material into categories or groupings by asking yourself, "How do these things fit together? What elements are related and how are they related? What general groupings are there?"

3. Ask yourself the following questions:
   a. What is the significance of this?
   b. What can it be used for?
   c. What are its implications?
   d. Is there anything that doesn't agree with the facts or with the theories on the topic?
   e. Write a paragraph explaining what you learned from this visual experience.

Important information for the trainer:
This would be a good opportunity for the students to make a concept map. A concept or mind map can be done in groups. For each group provide a large sheet of paper and markers in different colors. Instructions: In the middle of the paper draw an image and write the word(s) of the subject of your mind map. Do not box it in. Add main branches connected to the central image radiating outwards. Each branch represents a different sub-heading or key idea of the main topic. Each branch should have a single word printed on it. Add sub-branches on the ends of the main branch that add another level of detail with related ideas or sub-categories. Again, label each with a single word or short phrase. Continue branching until the map is completed. When finished have the students write a short paragraph on what they learned. Return to the large group and have them take turns sharing insights.

Making a mind map enables the students to "see" their learning. It is important to utilize all the student's senses when teaching as they will retain the material better.

Draft

Use your research notes and begin to write your paper putting the information into your outline. Develop your ideas and transition from paragraph to paragraph by integrating the ideas. Use sources to support your insights and not as the essence of the paper. Do not use direct quotes as fillers to extend the length of your paper but because the author offers weight to what is essential to your analysis. Explain to the reader why you are offering this direct quote. If several authors say the same thing, summarize what they say and use their names within the discussion.

Your work is not completed when you have finished the first draft. Think of it only as a draft and remember that editing and rewriting is the sign of a good author. Evaluate your work with a critical eye and begin the process of looking at it as an "outsider." Rewriting is not just proofreading and correcting punctuation but an effort to rearrange major organization and make the thesis clear to the reader.

Revising

Ask yourself:
- Does your title clearly state the purpose of the paper?
- Is the thesis expressed clearly?
- Does the introduction state the intent of the paper?
- Do the paragraphs transition smoothly from thought to thought?
- Do the paragraphs have topic sentences that state the purpose of the paragraph and relate to the thesis?
- Are examples clear and supportive of the major ideas?
- Do the references clearly state the source you used?
- Are extraneous thoughts and ideas cut?
- Does the conclusion support and summarize your thesis with a strong, lasting impression?
  Allow the conclusion to speak to your topic in a new and different way.
  Do not simply repeat what you have already stated.

During the revision process, you will accomplish the following:
- Add needed material whether it is words, sentences or paragraphs.
- Cut anything that strays from the topic.
- Replace areas you have cut to allow for smooth transitions.
- Move material to produce a more logical flow of ideas.

After your revision consider asking a peer to read your paper and offer suggestions. Take the feedback seriously and do not allow your personal reactions to cloud the observations received.

Proofread your paper after the revisions are complete, and you are satisfied with its organization. Check to make sure that the verb tenses match. Check for punctuation, spelling and grammatical errors. If your word choices are not exact, consult a dictionary or thesaurus for other possibilities. This is your opportunity to put the finishing touches on your paper.

Do not forget to include a bibliography or a list of works cited. Use the standard format recommended.

CHAPTER TEN
Plagiarism

A word to the wise about copying material that is not your own---don't do it! This is plagiarism. Cheating is never acceptable and when you use someone else's material as your own, you are harming the author as well as cheating yourself. Plagiarizing proves to your readers that you are not capable of producing your own ideas. It inhibits the writer's learning experience and educational process. Always practice good ethics. If you are in doubt as to whether you should site a source or not, cite the source.

When you use someone else's words, you must put quotation marks around these words and acknowledge the writer or speaker by revealing the source in a citation. Even if you paraphrase what the author has said or just use their ideas, you must still give the author credit in a footnote. Keep in mind that when you cite to a source, you are strengthening your writing. This reveals that your have performed research and have synthesized the material into your own work. When you use sources it proves that you are entering into the world of ideas and are aware that others think like you or disagree with your opinions. It is evidence that the student shows respect for those that create ideas and argue with established authorities. Citing to these authorities backs up your thesis when they agree with you. By responding in a reasonable manner to those that do not agree with you, it proves that there are valid arguments in opposition. Citing to other sources helps make the research stronger and make it stand out from others. It will probably result in a higher grade.

Important information for the trainer:

Engage in a discussion with students on plagiarism. Do not assume that they know what it means. Discuss what is appropriate in citing and what is not. Emphasize that this is a form of stealing and lying and not ethical behavior. It labels the student as a fraud who is not capable of doing research. Remind them that as lawyers it is important to have respect for those that create. We call this area of the law intellectual property. As the knowledge workers of the future, they all have a vested interest in protecting other's ideas.

Make it clear to the students that if caught plagiarizing, there is a severe penalty. Tell them what the penalty is. Some situations my result in the paper receiving a failing grade. Some instances may result in a dismissal from the class. These penalties exist not to punish but to protect those students that are honest and should be respected for honesty. Develop a penalty that the class abides by and stick to it when confronted with plagiarism.

Strategies for detecting plagiarism

- Mixed citation styles
- Lack of references or citations
- Unusual formatting with strange margins or indications of a cut and paste from the Internet

- Off topic and drifting into other areas where indications of cut and pasting exist
- Signs of dated material
- Referring to long-past events as current events
- Mixing of vocabulary and paragraph styles may indicate that material was lifted from several sources
- Mixing of styles where some is ornate and others are simple
- Obvious mistakes occur when students do not pay attention to URLs at the top of the page or inconsistent page numbers or printouts

CHAPTER ELEVEN
Legal Memorandum

A legal memorandum differs from a research paper. It is a method of forcing a lawyer to put the results of their research into writing. The memorandum focuses the lawyer to write down findings and serves as a checklist for the finished research. Putting it down on paper provides an opportunity to see if the initial problem for the client was resolved or if more work needs to be done. It is also a framework to refer to in the future that provides a list of research sources and can help to refresh the memory. A memorandum also serves as a method to communicate to a colleague or partner the result of your research. Keep a list of all resources consulted, even those that were not particularly helpful. It provides a record of where the research path led. (Just a note: legal memorandums are usually prepared and used as an internal source. Legal briefs differ somewhat and these documents are used for external purposes.)

An outline for a sample legal memorandum follows:

Memo From:
To:
Topic:

Facts:

The facts that are listed address only the specific issue of your topic. There may be other issues that eventually arise, but this exercise addresses only the specific.

Issue:

The stated issue is consistent with the facts. Stating only the facts that address this issue enables the lawyer to understand what specific area of law needs to be researched. During the course of research, your initial issue may change.

Conclusion:

The conclusion addresses the precise issue as stated above. Remember that this is a result of your research and reflects what you have discovered.

Reasoning:

The reasoning may include positive and negative news for your client. We would always prefer a positive reasoning, but this is an opportunity to alert you and your staff that there are some troublesome areas that need to be resolved. The reasoning points out that there is a specific manner in which the case needs to proceed. It cites to materials that back this reasoning.

Resources Utilized:

All research material should be listed here, helpful and not helpful, so the lawyer has a record of which sources were consulted.

Important information for the trainer:

Offer a case study and have the students use it to write a legal memorandum. Have the students exchange their work with each other and critique.

Important information for the trainer:
        See **Addendum** for helpful hints.

ADDENDUM

TRAINING ADULTS

Effective Preparation

- Keep your notes organized with lots of space between them
- Develop a personalized research guide for yourself with notes
- Make sure that presentation systems, if used, are ready to go
- Use realistic examples
- Develop prepared questions for the group
- If using checklists, hand them out to the students
- Check out the facility and equipment well in advance of class
- Arrive early and greet the students as they arrive

Effective Participation

- Give the students objectives for each class
- Review the objectives at the end of class
- Focus class discussion
- Use active listening skills, restate the student's statements if necessary
- Acknowledge the question and ask if you have answered it
- Encourage participation with eye contact and non-verbal signals
- State that you want an active participative learning environment
- Offer approval for any input
- Move around the room to draw all students out
- Actively request questions by asking, "What questions do you have for me?" as this works better than asking, "Any questions?"
- Pause long enough to allow your students to think of a question?
- Wait for the student to finish their question
- Be honest when you don't have the answer
- Keep your answers specific and do not ramble
- Close-ended questions seek accuracy
- Open-ended questions provoke stimulating discussion

Types of learning tools

- Use visual aids, such as flipcharts, white boards or presentation systems
- Write case studies for specific examples
- Break students into small groups to discuss case studies or share ideas
- Encourage students to use peer review and critique each other
- Design and use ice-breakers to introduce students to each other
- Use games
  Games should relate to subject matter
  Energize your students
  Offer a new outlook
  Invent and be creative
  Allow students to participate as a group

What are the Top Ten Necessities for being a Good Trainer?

1. Have fun
2. Provide a safe environment where questions and input are welcome
3. Listen to students and their expertise
4. Summarize when necessary
5. Give our best – physically and mentally
6. Deal with dysfunctional behavior
7. Ensure good participation from everyone
8. Train adults as adults
9. Focus on learning objective
10. Stick to an agenda

What are the Top Ten Don'ts for a Trainer?

1. Damaging student self-esteem
2. Going beyond the training time
3. Reading directly from slides
4. Talking down to students
5. Allowing certain students to monopolize conversation
6. Staying rooted to one spot
7. Starting training late
8. Inadequate preparation
9. Relating personal anecdotes irrelevant to topic
10. Insincere enthusiasm

Basic Tips

- Be organized
- Dress professionally
- Make eye contact
- Relax and speak naturally
- Use natural gestures
- Use language gauged to your audience
- Learn to pause
- Be enthusiastic
- Practice your presentation

Adult Thinking and Learning Styles

- Reflective
  Thinkers
  Ask "why"
  Want examples

- Conceptual
  Need structure
  Holistic approach to a problem
  Ask "what is it" and "how does it work?"

- Practical
  Just want the facts
  Prefer hands-on experiences
  Look for shortcuts and checklists
  Ask "how do I do this?"

- Creative
  Loves change
  Asks "what if?"
  Enjoys creating and designing own shortcuts