On Bringing Alternative Methods to Legal Research Instruction

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Legal research is typically taught in a predictable, traditional way, but this doctrinal approach does not provide the skills and techniques needed for research in support of social justice efforts. This essay discusses a legal research course that I teach called Research for Social Justice, which incorporates critical and alternative methodologies that are not usually taught in legal research classes. After describing the content of the course, I focus on explaining what alternative legal research would entail, including a discussion of some alternative methods and strategies that I teach in my course with the goal of introducing students to a wide variety of potential skills and tools that they may have never previously connected with legal research.

Notes for a New Legal Research Pedagogy

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Do societal power structures shape the organization of legal information? Do they embed biases in legal research tools? If so, how can the insights of critical legal theory assist us in contending with this phenomenon? An entire body of scholarly literature using the lenses of critical legal studies, feminist legal theory, and Critical Race Theory to examine legal information and the legal research process has grown up around answering these questions. However, the theories, methods, and strategies proffered by the scholars writing in this area are rarely taught in the legal research classroom.

I begin this Essay with a discussion of the place of the legal research course in the law school curriculum and the prevailing ideology that animates contemporary legal research pedagogy. Next, I provide an overview of the scholarly movements challenging this ideology, namely Critical Legal Research and critical legal information literacy, and recount my experience teaching a legal research course designed to convey the concepts they promote. Finally, I briefly attempt to map a new legal research pedagogy that emphasizes the context in which legal information is produced, organized, and disseminated and encourages law students to reimagine the legal research process as the creation of new legal knowledge.
Integration & Transformation: Incorporating Critical Information and Literacy and Critical Legal Research into Advanced Legal Research Instruction

Courtney Selby

Today’s law students exist in an information ecosystem where access to information is plentiful. Between the open web and the proliferation of databases offering countless research resources, retrieving potentially relevant search results is relatively easy. The struggle for our students is filtering through seemingly endless search results to find the best resources for the legal problem at hand. For many of us, the summer of 2020 was a watershed moment, not because of the pandemic, but because of the brutal murder of George Floyd. Make no mistake, there was a genuine need for CIL and CLR in our legal research instruction long before this event. Yet the galvanizing effect of this murder and the subsequent public outcry made this need abundantly clear.

Critical legal research seeks to bridge gaps such as these by identifying areas in which legal classification schemes are not reflective of lived experience, then using interdisciplinary resources and novel legal analysis to push for a more complex classification scheme, ultimately leading to better understanding of the research. The information literacy skills required to evaluate, select, and use information for advocacy are, for me, some of the most important skills I can give my students. Imagine a space in which everyone using the critical lens in legal education could share teaching tools. This is just one possible outgrowth of collaboration.

Jane Crow Constitutionalism

Evan D. Bernick

On June 24, 2022 The United States Supreme Court issued its decision on Dobbs v. Jackson Women’s Health Organization; overturning Roe v. Wade, and destroying fifty years of precedent to protect the constitutional right to abortion in the United States. This overturning sets a dangerous, new precedent that reinforces the State’s control of reproduction, and criminalizes a woman’s right to choose, with very few exceptions. In states like Mississippi, Black women are already experiencing the highest rates of maternal mortality, incarceration, and poverty.

This article posits that Dobbs operates to maintain a racialized and gendered underclass, and names this phenomenon “The New Jane Crow.” Though provocative, the phrase fits the phenomenon, given substantive and functional continuities between state control of reproduction past and present. Dobbs celebrates the demise of Plessy v. Ferguson, upholding the constitutionality of “separate but equal,” as an example of the importance of overruling egregiously wrong precedents. But Justice Samuel Alito’s opinion for the Court in Dobbs has more in common with Plessy than its author recognizes. This article details the how and the why.
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