

# GUIDE TO ACADEMIC LEGAL RESEARCH



**Written by Joe Makulila (LLB, BSC, MPhil, PhD student)**

## DEDICATION

I dedicate this book to all academic researchers in all law schools everywhere, i also dedicate this book to my wife Mirriam Nakawala Makulila, my two daughters, Chenai Makulila & Shumirai Salifyanji Makulila and my great son Panashe Natendzi Tichengete Lukundo Makulila, be the best you must be. I challenge you to search for knowledge.

It is already revealed in the bible that in the last days, knowledge will increase. May you get your share of the knowledge which is increasing already.

*Daniel 12:4*

*But you, Daniel, roll up and seal the words of the scroll until the time of the end. Many will go here and there to increase knowledge."*

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Dr Richard Silumbe and the entire Zambia Research and Development Centre played a huge role in my interest for research in the early 2013 when I worked there, that time contributed to this understanding and desire for knowledge in research.

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## **1 Introduction**

This guideline is for the purposes of doing a research proposal (for the purpose of this book we will refer to it as paper one) and the actual dissertation (for the purpose of this book, we will refer to it as project paper two). It necessitates fluency with the research methodology and legal method. It also builds upon the capacity to do research that has been developing through the first three years of law school by conducting research for essays and assignment and programme which teaches observation.

In most universities, the writing of dissertations is a two-unit course under the title project paper one and two which are undertaken. Should a student register for project paper one this automatically registers them for project paper two. Project paper one is a guides on the writing of the proposal while project paper two guides on the writing of the complete dissertation. These two units are usually graded separately by the supervisors. This same process is repeated for submission of the graded dissertation after completion.

## **2 Background**

Through the years, students have written about topics that have canvassed Zambian complete laws and their amendment as well as numerous diverse areas of regional and international law. In the past years Zambia's parliament has passed many pieces of legislation in order to begin to operationalize the constitution's various provisions. As a result, every single area of law in Zambia has very limited comment on it and the areas of research available to the law student include business law and family law to indigenous people rights and land law etc. This book is now in exciting times as a student could pick almost any area of law to conduct research in and it will be an original, when doing my Bachelor of Laws degree (LLB), I was looking at a title "Analyzing the difficulties of Challenging evidence in Court for prose litigants" and I thought there wasn't much to be discovered in my area of research until the research proved me wrong, I thought I had the understanding I needed to carry it out until my supervisor showed me how much I needed to understand about legal research, he told me that legal research is believed to have an influence with its alternative recommendations on legislation and even influencing judicial issues to some extent and hence a good job on your research is very important, "know what you what to find out first" he said.

## **3 Objectives**

Academic Legal Research as a course means learning how to conceptualize, develop, undertake and complete a fixed piece of data analysis within a fixed period of time. As a result, this two-unit book looks into developing the ability of the student in the following ways:

1. How to formulate a piece of research, undertake and complete it
2. How to work under direct supervision.
3. How to complete work on time.

4. How to critically analyze and comment on law.
5. How to conduct research.

## **4 Evaluation**

### **4.1 Research Paper One: Proposal Writing**

Students are assessed only once in this course by the submission of a completed and supervised proposal which is submitted to their supervisors and in some universities, examined by their supervisors according to the criteria set out in 4.3 below.

### **4.2 Research Paper Two Dissertation Writing**

In the second semester students continue to work under the same supervisor and research into the proposal they submitted in the first semester. They then complete the research and write it up in the form of a dissertation before the end of the second semester after which this dissertation is submitted to their supervisors for grading.

### **4.3 Format of submission**

#### **4.3.1 The Research Proposal**

A research proposal must be a document of not more than 2500 words not including footnotes and the bibliography. Extra detail is given to you by the University, different universities have different specifications. The hard copy must be simply printed out and stapled with no binding in most cases. The cover page must contain the following information: title, name, registration, year of completion, name of supervisor date and word count.

#### **4.3.2 Dissertation Writing**

The full dissertation/ Thesis should be not more than 10000 words not including footnotes and bibliography but depending on your university and your level of study it may even be more. This should be submitted to the supervisor and copy must be bound in black with the title in gold setting out on the front cover: the title, name, registration and year of completion, registration number and year of submission. Usually one is retained by the researcher and this should excite you because you have a copy to show your family after the hard work.

The first page in the thesis/ dissertation should include title, name, registration and year of completion and word count.

### **4.4 Criteria for assessment**

In most Universities, these two courses require that the supervisor submits within the timeline the following documents

1. Research paper I

- a) A hard copy of the marked proposal
- b) A signed and graded mark sheet
- 2. Research paper II(Dissertation)
  - a) Two hard copies of the marked and bound dissertation
  - b) A signed and graded mark sheet

In most Universities, both the proposal and final dissertation will be assessed using the directions set out below

1. Identification of Statement of the Problem	5%
2. Identification of the Issues Arising	5%
3. Articulation of the Hypothesis/Arguments	10%
4. Identification and Articulation of the Theoretical Framework	10%
<i>Sub Total</i>	<i>30%</i>
5. Familiarity with literature on the subject	20%
6. Originality of ideas/contribution to knowledge in the area	10%
<i>Sub Total</i>	<i>30%</i>
7. Thoroughness in the use of citations	10%
8. Presentation (typographical errors, proper subdivisions, Clarity in expression, compliance with word limit etc)	10%
9. Conduct during the preparation of the research paper (Consultation with supervisor, independence in research etc)	10%
10. Submission on time and keeping to word count	10%
<i>Sub Total</i>	<i>40%</i>
The Total marks for the written work	100%

In every university, Legal Research is examinable subject to time and deadlines like all other courses. Failure to submit the required assessment on time in most universities results in a failing grade.

## 5 Method of Learning

This course is predominantly not a taught course. A supervisor is allocated and students are expected to contact their supervisors immediately on the commencement of their research. Classes are usually run by the dissertation coordinators in some universities on how to write a proposal (Brief Guide), after which the supervisor becomes the sole guide of the student.

## 6 Plagiarism

### 6.1 Introduction

Plagiarism is the act of taking another person's writing, or idea and passing it off as your own. This includes information from web pages, books, interviews, articles or

any other medium. Whenever you paraphrase, summarize, or take words, phrases, or sentences from another person's work, it is necessary to indicate the source of the information within your paper, specifically in the footnotes. It is not enough to just list the source in a bibliography at the end of your paper. Failing to properly quote, cite or acknowledge someone else's words or ideas is plagiarism

Tips on how to AND how not to quote, cite or acknowledge someone else's words or ideas

Here's the ORIGINAL text, from page 1 of ***Lizzie Borden: A Case Book of Family and Crime in the 1890s*** by Joyce Williams et al.:

*The rise of industry, the growth of cities, and the expansion of the population were the three great developments of late nineteenth century American history. As new, larger, steam-powered factories became a feature of the American landscape in the East, they transformed farm hands into industrial laborers, and provided jobs for a rising tide of immigrants. With industry came urbanization the growth of large cities (like Fall River, Massachusetts, where the Bordens lived) which became the centers of production as well as of commerce and trade.*

Here's an UNACCEPTABLE paraphrase that is **plagiarism**:

*The increase of industry, the growth of cities, and the explosion of the population were three large factors of nineteenth century America. As steam-driven companies became more visible in the eastern part of the country, they changed farm hands into factory workers and provided jobs for the large wave of immigrants. With industry came the growth of large cities like Fall River where the Bordens lived which turned into centers of commerce and trade as well as production.*

**What makes this passage plagiarism?**

The preceding passage is considered plagiarism for two reasons:

- the writer has only changed around a few words and phrases, or changed the order of the original's sentences; and
- the writer has failed to cite a source for any of the ideas or facts.

**If you do either or both of these things, you are plagiarizing.**

Here's an ACCEPTABLE paraphrase:

*Fall River, where the Borden family lived, was typical of northeastern industrial cities of the nineteenth century. Steam-powered production had shifted labor from agriculture to manufacturing, and as immigrants*



*arrived in the US, they found work in these new factories. As a result, populations grew, and large urban areas arose. Fall River was one of these manufacturing and commercial centers (Williams 1).*

### **Why is this passage acceptable?**

This is acceptable paraphrasing because the writer:

- accurately relays the information in the original
- uses her own words; and
- lets her reader know the source of her information.

Here's an example of quotation and paraphrase used together, which is also ACCEPTABLE:

*Fall River, where the Borden family lived, was typical of northeastern industrial cities of the nineteenth century. As steam-powered production shifted labor from agriculture to manufacturing, the demand for workers "transformed farm hands into industrial laborers," and created jobs for immigrants. In turn, growing populations increased the size of urban areas. Fall River was one of these hubs "which became the centers of production as well as of commerce and trade" (Williams 1).*

### **Why is this passage acceptable?**

This is acceptable paraphrasing because the writer:

- records the information in the original passage accurately;
- gives credit for the ideas in this passage; and has
- indicated which part is taken directly from her source by putting the passage in quotation marks and citing the page number.

## **6.2 Strategies for Avoiding Plagiarism**

1. Put in **quotations** everything that comes directly from the text especially when taking notes.
2. **Paraphrase**, but be sure you are not just rearranging or replacing a few words. Instead, read over what you want to paraphrase carefully; cover up the text with your hand, or close the text so you can't see any of it (and so aren't tempted to use the text as a "guide"). Write out the idea in your own words without peeking.
3. **Check your paraphrase** against the original text to be sure you have not accidentally used the same phrases or words, and that the information is accurate.

## **What You Need to Know (or What is Common Knowledge?)**

**Common knowledge:** facts that can be found in numerous places and are likely to be known by a lot of people.

*Example: Frederick Titus Jacob Chiluba was elected President of the Republic of Zambia in 1991.*

This is generally known information. **You do not need to document this fact.**

**Quotation:** using someone's words. When you quote, place the passage you are using in quotation marks, and document the source according to a standard documentation style.

**Paraphrase:** using someone's ideas, but putting them in your own words. This is probably the skill you will use most when incorporating sources into your writing. Although you use your own words to paraphrase, you must still acknowledge the source of the information.

As a researcher, you need to ensure that you follow your university Code of Academic Integrity, especially as it concerns plagiarism ('intentionally or knowingly representing the words or ideas of another as one's own'). Follow these three principles scrupulously:

1. Direct Quotation: Direct quotations need be identified by quotation marks or by appropriate indentation and be promptly cited in a footnote.
2. Paraphrase: Prompt acknowledgment is obligatory when material from another source is paraphrased or summarized in whole or in part in your own words.
3. Borrowed Facts or Information: Information that is acquired in one's reading or research, which is not common knowledge among students in the course, must be acknowledged. Materials which add only to one's general understanding of the subject may be acknowledged in the bibliography and need not be immediately footnoted.

Moreover: never down-load or copy and paste material from the internet into your paper without proper acknowledgement.

Note that plagiarism results in immediate failure and may even cause expulsion in some universities.

## **7 Research paper one: Proposal writing**

The writing of a proposal paper is envisioned to test your ability to: (a) show knowledge, understanding and critical evaluation of relevant legal documents, cases and publications; (b) to communicate information and concepts in writing, sustained by evidence and other subsidiary data; and (c) to complete a piece of written work in a given time.

## **7.1 Planning the Proposal**

As soon as (a) you have a title or topic of the proposal, or (b) you have agreed on the title and scope of your proposal with the supervisor, try to allocate some time to thinking and planning the proposal. Try and identify the specific problem that you intend to research on by formulating an overall question. Give yourself plenty of time (a) to explore for information in paper-based resources, for example books, periodicals, reports, conference proceedings, etc. and in electronic means, for example on the Internet, (b) to collect and analyse data, (c) to write your paper and to revise it. Make use of publications that are available in University libraries, and also searching through the databases on online libraries.

The title of your proposal is what you intend to call your dissertation. The topic could be the extensive area of law that you aim to research on. At this point in time you may be very unclear or even split between two topics or more. The best decision at this initial stage is to choose your topic based on which area you like best.

You should start by framing your title handling it as the term of reference for the rest of your proposal. After framing your title pull up a table of contents for the whole proposal.

## **7.2 Structure of the Proposal**

This section sets out the form both physical and content of what a proposal should look like. However, there is no fixed guideline of the format of a proposal although the content itself is clear. For example, there is no fixed rule on the order of the flow of the subsections within the proposal whether theoretical framework should come before Research Methodology or vice versa. This decision is based on the preference of the supervisor.

### **7.2.1 Choice of Topic**

Students deciding to undertake a dissertation may be clear on the topic they want to pursue or have no idea at all. There are various options available to finding a research topic.

1. Begin by thinking about areas in law that interest you and read up on them.
2. Should you be unclear between several topics pick the one you have the greatest passion for
3. Speak to lectures who have already taught you specific areas of law and ask them what areas in their field are unexplored
4. Speak to people working in different industries outside the law school and request permission to undertake research in their institutions on areas of interest to them. For example approach the Law Association of Zambia (LAZ) ask them the following questions:

- a) What are the biggest challenges (legal) facing the institution currently?
- b) Are there any areas of law in that context that are unexplored?
- c) Would the institution like you to undertake the research?
- d) Are there any other areas of law that are important but unexplored?

It is still wise to choose a topic within the course subject that interests you. Avoid writing on something on which there is very little available literature or documentation because it may be unlikely if not impossible to complete the dissertation within the fixed period allocated to the course. You should try and define the purpose and scope of your paper as soon as possible and, wherever necessary, in consultation with your supervisor.

*MUST HAVES in your research proposal*

- Title
- Table of Contents
- Background
- Statement of the Problem
- Justification of the Study
- Statement of Objectives
- Research Question
- Theoretical Framework
- Research Methodology
- Literature Review
- Limitations
- Hypothesis
- Assumptions
- Dissemination
- Chapter Breakdown
- Time Line/Duration
- Bibliography

**7.2.2 Title**

Provide a cover sheet that gives the title of your proposal, preferably in the middle of the page (state whether your proposal is “Draft” or “Final” underneath the title). Add (1) your name (2) the title of your degree course together with (3) your student registration number (4) the title of the course subject for which the paper is intended (5) the title of your supervisor and (6) the month and date.

In order to choose the title for your dissertation it should be a reflection of your research question for example if your research question reads:

Do non state actors have a right to self defense?

With a subsidiary question:

If a non state actor attacks a Zambian citizen in Greece for example, what right of redress does the Zambian have in international law as well as domestic law?

Then the title of the dissertation could be:

***The Right to Self Defense after an Attack by Non State Actors: A case study of the Basque separatist in Spain***

### 7.2.3 Table of Contents

The next page should include a table of contents that (1) lists the headings and (2) relates those headings to page numbers. A table of contents makes it easier for the reader to see at a glance how you have organised your proposal.

Illustration:

<i>1.1Background</i> .....	1
<i>1.2Statement of the Problem</i> .....	2
<i>1.3Justification of the Problem</i> .....	3
<i>1.4Hypothesis</i> .....	3
<i>1.5Research Question</i> .....	3
<i>1.6Statement of Objectives</i> .....	5
<i>1.7Theoretical Framework</i> .....	5
<i>1.8Conceptual Framework</i> .....	8
<i>1.9Research Methodology</i> .....	12
<i>1.10Limitations</i> .....	12
<i>1.11Literature Review</i> .....	13
<i>1.12Chapter Breakdown</i> .....	16

### 7.2.4 Table of cases, statutes and acronyms

These are three separate lists that are all optional in a proposal depending on the area of law you are researching on. If you make reference to either of them or all of them you will be required to create the list. A table of cases is required only if you have made references to case law from any country in the world, including case law from international judicial bodies. A table of statutes is required only if you make reference to any legislation, regional instruments or international treaties. A table of acronyms follows the same rules.

### 7.2.5 Introduction/Background

A proposal can have either an introduction or background, or it can have both the introduction and the background. This depends on the way of thinking of the supervisor. There is no penalty for taking either approach.

The introduction sets out a broad but catchy commencement to the area of research being undertaken. It is usually not very long but is intended to present the topic to a reader for the first time.

The background charts out the road map of your proposal explaining in detail what it is you set out to do, what informs your choice of topic and your argument structure. It explains the context within which the study is carried out.

## Illustration of a Background/Introduction

*Article 51 of the Charter of the United Nations proceeds on the presumption that an armed attack comes from another state, but state practice has shown instances where states have justified a retaliatory attack on the territory of another state in the name of self-defense where the attack has emanated from a non-state actor. Both treaty and customary international law recognize the state's right to use the appropriate measures, including use of force, in order to thwart the dangers posed to its existence and to the security of its citizens.*

*In today's world, there are a number of non-state actors who are involved in armed activities against states. Non-state actors are totally clandestine; they have no bases in the semblance of military encampments; and they are not uniformed armed personnel, but small groups of ordinary 'next door' people, who are capable of mounting operations of the scale of the 11 September 2001 strikes. For a victim state to be able to exercise its right to use force to repel such kind of violence, would depend on whether the force used by the non-state actors amounted to an "armed attack". Article 51 of the UN Charter requires that the right of self-defense should only be exercised 'if an armed attack occurs'. What this armed attack is, and by whom it is executed, is not detailed in the Charter. Whether attacks by non-state actors fall within the ambit of international law is now a subject of controversy. Use of force by non-state actors would constitute an "armed attack" within the definition of Article 51 of the UN Charter if the source of the violence happens to be the non-state actors and the author being a state. Since Article 51 of the Charter does not provide that an armed attack must originate exclusively from a state, any armed attack by non-state actors may give rise to the right of self-defense.*

*Nevertheless, Article 51 of the Charter has been interpreted by a publicist as excluding measures of self-defense against attacks by non-state entities, unless a certain degree of state involvement can be inferred. The general rule under international law is that only acts of state organs acting in their official capacity are imputable to a state; actions of non-state actors, conversely, do not entail state responsibility. Yet, the wording of Article 51 of the Charter does not limit the concept of armed attack to states. Thus, there exists a loophole in the Charter because it does not say where the armed attack must come from, and state practice has exploited that loophole to justify a retaliatory attack on the territory of another state in the name of self-defense when the attack has emanated from a non-state actor.*

#### **7.2.6 Statement of the Problem**

It comprises of a succinct issue which has arisen in a particular context and as a result needs to be investigated and the solution found or recommended. What you want to research on is what you will describe here.

##### **Illustration**

*The problem that arises is whether the right of self-defense may be lawfully exercised in the event of an armed attack against a state by non-state actors. In other words, the problem is whether, and to what extent, a state may be held responsible at international law for armed attacks by non-state actors operating from its territory and, hence, be the object of a retaliatory attack by the victim state in exercise of the right of self-defense.*

#### **7.2.7 Justification of the Study**

Explain why you picked this topic to research on. Why is it of interest to you?

##### **Illustration**

*This study is justified on the basis that although there exists a wealth of literature on international law and the use of force generally, there is an apparent scarcity regarding the treatment of the problem that this paper seeks to address*

#### **7.2.8 Statement of Objectives**

This is the itemization of the objectives of your research. It could include a main objective and specific objectives. This will prevent you from straying in your research.

##### **Illustration**

*The general objective of this research paper is to discuss the legality of the use of force in self-defense pursuant to armed attacks by non-state actors operating from the territory of the target state. The specific objective of the paper is to discuss the nature and scope of armed attacks that should trigger the exercise of the inherent right of self-defense under Article 51 of the UN Charter.*

### 7.2.9 Research Question

What are the questions that will be answered by your research? It is recommended that at undergraduate level a student limits their research to one legal question then at Masters and PhD the number of questions can be more. These provide a basis for laying out the study and may include questions such as:

Illustration

*What is an armed attack?*

*or*

*Does an attack by a non state actor amount to an armed attack?*

*or*

*Is a state justified in retaliating under article 51 of the UN Charter after there has been an attack on its territory by bandits operating from a different state?*

*or*

*Does article 51 of the UN Charter contemplate an attack by a group of non state actors as an armed attack within its definition?*

The above are four alternative research questions.

### 7.2.10 Hypothesis

A hypothesis is the presumed answer that a researcher makes before conducting research. It is a law based solution to the research question. Even if you have only one research question you can have more than one hypothesis.

Illustration

*This research proceeds on the presumption that the inherent right of self-defense is exercised only when an armed attack occurs against a state by another state*

### 7.2.11 Theoretical / Conceptual Framework

There are different opinions on the differences between a conceptual or theoretical framework. As a result you can have either or both of them. However you must absolutely have at least one. Where the supervisor is of the opinion that they are interchangeable then this is the section where you identify the jurisprudential basis of your research. What is the theoretical basis of your research? Which theorist will you be using to support your research and to answer your research question? Will you prefer Thomas Hobbes to Jeremy Bentham for example? Will you prefer the positive school of thought to the historical? What informs your choice in selecting the theorist or school of law? You may use schools of thought from law or any other disciplines. More and more research today is multi disciplinary in



nature which means that you can also combine school of thoughts in other disciplines to guide your research.

Illustration:

*Among other theories of law, this paper is centered on the positivist approach, and is concerned with viewing events as they have occurred and discussing actual problems that have arisen in the field of attacks by non-state actors vis-à-vis the norms under international law. The reason for adopting the positivist approach to the exclusion of natural law lies in the fact that this research paper is focused on the principles formulated under international law. This paper is focused upon looking at the written law as it is and is not concerned with the morality of the actions that states take. Hence, the natural law school will not be considered by this paper. This paper is more concerned with whether or not the law that has been formulated via treaties is being faithfully followed and enforced by states parties thereto.*

*Furthermore, this paper focuses on positive law as opposed to natural law also because positive law is a law that is procedural in character. We are living in an era that has moved away from just war doctrines and moved into the era of regulating the conduct of war via treaty law. It is all about the law and its interpretation that this paper is concerned with. Definitions of various terminologies that this paper may seek to define will be the definitions that the law has prescribed. This paper will also take into consideration the realist approach as a method of looking at the existing law on self-defense in relation to state practice. This approach will facilitate understanding the law relating to self-defense from the perspective of politics. It will help explain why some states derogate from treaty law yet they are signatories to the UN Charter. It will also aid in understanding how states view the concept of state responsibility when it comes to retaliating against non-state actors operating from the target state's territory. The realist approach will, furthermore, assist in revealing that the language of in Article 51 of the UN Charter has brought about confusion. The Charter, specifically, Article 2(4) makes it clear that the use of armed force on the international plane is basically an inter-state phenomenon, and on the other hand, when it comes to legitimizing resort to force by a state, the Charter does not specify expressly that the target of lawful force must always be a state. This has led to bias in the conventional structures of politics and power.*

*The historical approach is also of relevance to this paper since it is useful in the understanding of the history that brought about the Charter and a change in the law on the use of force. Through this school, focus will be placed on state practice, and the resultant customary law, before the coming into force of the UN Charter in regards to the exercise of self-defense.*

For those supervisors who consider theoretical and conceptual framework as being two different subsections within the proposal, the understanding of the theoretical framework is as discussed above. However the conceptual framework in this case is an optional section required only if necessary. It sets out legal terms that are unsettled but require a fixed definition before proceeding with the research. Examples of unsettled legal terms include discrimination, terrorism, the right to health, realisation amongst others. There are two main methods of conducting research please refer to your Legal Research Methods course.

#### **7.2.12 Research Methodology**

Research can take the form of qualitative or quantitative research. This section will need to explain which method either one or both that you intend to use and why. You also need to explain why you will not use any particular method. You should not use the argument of lack of time or financial resources as a reason for limiting your research as most students of the course are facing with the same limitation.

Methods of qualitative research (desk based) may include:

- a) Library research
- b) Internet searches

Methods of quantitative research (non desk based) may include:

- a) Interviews with key informants
- b) Use of a questionnaire or focus group discussion guide
- c) observation

It is very important to use the right research methodology based on the research question you have chosen. Every single thing in your proposal must be tailored to achieve the answer to the research question. As a result when you are choosing your research methodology you must make reference and explain how that methodology is the most suitable one for finding the answer to your research question.

If questionnaires and interview guides are used, you will need statistical analysis of the findings. You also want to tell us what sample of the population was interviewed and what informed your sampling process and how your field data was triangulated with your library research.

#### **Illustration**

*The method to be used to gather information for this paper will be through the use of the library. The library research will seek to analyse and interpret the UN Charter, international arbitral and judicial decisions, resolutions/recommendations/declarations of international fora, and scholarly writings on the circumstances and situations when resort to the use of force by one state against the territory of another may be justified*

*on the grounds of self-defense. This research paper will be based on the case study as well as the comparative methods of inquiry in order to prove or disprove the hypothesis. Also, the ratio level of measurement is most suited to analysing the data that will be collected as a result of the case study method and this level of measurement will also aid in comparing the legal justifications presented by the victim states when resorting to retaliatory attacks against the state from which the non state actors carried out the armed attack*

### **7.2.13 Literature Review**

The literature review looks at the work of other researchers that relates to your demarcated area of research with a view to carving out a niche for yourself. You are unlikely to be the first person to look at the issue you are researching into and your work needs to be informed by the work of others. The aim in reviewing the literature is to identify the gaps in that literature that your work seeks to fill.

#### **Illustration**

*Although there exists a wealth of literature on international law and the use of force generally, there is an apparent scarcity regarding the treatment of the issue that this paper seeks to address. However, many important aspects of this paper, relating to both form and substance, have been crafted with heavy reliance being placed on the existing literature. Tom Ruys and Sten Verhoeven take a two-tiered approach in discussing private attacks. On the one hand, that self-defense is only lawful when attacks can be attributed to a state and, on the other hand, that no link to a state is required. This two-tiered approach provides no definitive answer, and thus, as a result, this paper will inquire into whether, for a victim state to be able to resort to self-defense, whether the armed attack must originate from a subject of international law or be ascribable to it by virtue of the norms regulating international state responsibility.*

*Jorg Kammerhofer takes a case study approach to illustrate the problem posed by non-state actors and the international law response towards them. He explains further whether Article 51 can apply to non-state actors, but he does that in the light of the non-state actions being attributable to the state in whose territory the non-state actors are operating from. Kammerhofer's article is relied on as a guide facilitating this paper. This paper, therefore, will also analyse the developments in state practice, as well as the relevant jurisprudence of the International Court of Justice in order to show the legal justification of the military action taken against such entities, vis-à-vis the state in whose territory they are located. On the other hand, Constantine Antonopoulos argues that no link is required to a state whose territory is being used by the non-state actors to carry out their attacks*

*against another state for the right of self-defense to be exercised. He justifies his position by relying on Article 51 stating that the Article does not specify that an armed attack giving rise to self-defense must emanate only from a state. This paper will indicate, in support of Antonopoulos' view, that Article 51 of the United Nations Charter does not indicate where that attack must emanate from.*

*Emanuel Gross points out the difficulty of classifying attacks by non-state actors as armed attacks and interprets Article 51 as recognizing the existence of the right to self-defense in the case of an armed attack by one sovereign state against another state. Thus, this paper is going to examine whether or not under international law a state bears international responsibility for armed attacks by non-state entities operating from its territory. It will also analyse the developments in state practice, as well as the relevant jurisprudence of the International Court of Justice in order to show the legal justification of the military action taken against such entities, vis-à-vis the state in whose territory they are located. These authors do not address the issue of where the armed attack must emanate from, and that is the gap this paper is going to address*

#### **7.2.14 Assumptions**

Whereas a hypothesis is a legal assumption, an assumption here refers to non legal presumptions made by the researcher which may or may not be true. This section is an optional section in a proposal and should be put when absolutely necessary based on the guideline of the supervisor

##### **Illustration of fact**

*It is assumed that members of a group of non state actors will be difficult to find and willing to disclose information and as a result this research will be desk based.*

##### **Illustration of fact and law:**

*This paper proceeds on the assumption that an armed attack comes from another state. The paper also assumes that state practice has shown instances where states have justified a retaliatory attack on the territory of another state in the name of self-defense where the attack has emanated from a non-state actor*

As a result, a research proposal assumption is the premise upon which the research is carried out. You are simply telling your supervisor what you have assumed. By your assumption you are restating a theory, a fact or a provision of the law and agreeing with it. You may also look at events as they occur and state them as your assumptions. Your assumptions can either be written in paragraph or outline form. Preparing for research proposal assumptions involves brainstorming and focusing

your ideas. However, these must be realistic and once again the limitation of time and money are not acceptable assumptions.

#### **7.2.15 Limitations**

Limitations are the constraints on generalizing the findings of your study that are the result of the ways in which you chose to design the study and/or the method used to establish internal and external validity. There are the personal obstacles of the researcher to undertaking an unbiased study. They explain how the personal leanings thinking or opinion that are a researcher has may affect limit or colour the findings of the research. For example, if you are a person with strong religious opinion and your study is discussing a religion based law that is already a limitation.

#### **Illustration**

*This paper limits its research to armed attacks carried out by non state actors operating from the territory of a state. The study will be limited to the case study of the following states and non state actors:*

- 1. Israel and the individual non state actors operating from the Occupied Palestinian Territories.*
- 2. Turkey and the Kurdistan Workers Party (PKK) operating from Northern Iraq.*

#### **7.2.16 Dissemination**

This is an optional section and depends entirely on the researcher. In this part of your study you should demonstrate how you intend to inform other people/your audience of your findings or outcomes of your research.

#### **7.2.17 Chapter Breakdown**

This section sets out and lists with a one to two paragraph explanation of what each chapter of your dissertation will be intended to cover. Traditionally a dissertation consists of five chapters: chapter one which gives the introduction; chapter two consist of theoretical framework; chapter three gives the case study; chapter four is on recommendations and finally chapter 5 conclusion.

#### **7.2.18 Plan to completion**

This section is not part of the final proposal that will be submitted, however you must insert it into the proposal that you submit to your supervisor in order to ensure that you complete the work within the required time.

### **7.3 Assessment of the Proposal**

As with all writing, it is important to remember that the three “C’s” of good legal writing will apply. They are: (a) **clarity** of expression; (b) **conciseness** of argument; and (iii) **correctness** of use of language, grammar and spelling.

Before writing your proposal you should find out exactly what is required of you and how the proposal will be assessed. Make sure that you can complete the task of researching and writing the proposal in the time available, without neglecting your other subjects or interfering with your preparation for examinations. It is important to pace yourself but submit on time.

## **8 Research paper two : Dissertation**

Only if you complete and submit an examined proposal, Research paper one will you be allowed to proceed with this part of the course. Having written your proposal you will next have to start writing your chapters. The twin guides to your dissertation are the research question and the theoretical framework. These two must be discussed throughout the dissertation.

### ***8.1 Chapter Breakdown***

Traditionally a dissertation consists of five chapters: chapter one which gives the introduction. This is usually your proposal that is re-worked into an introductory chapter. For example this finalised chapter should be in complete prose without any bullets or numbering. The plan to completion is not included in this section. Your supervisor will guide you on any additional changes required. This chapter is usually 2000 words.

Chapter two consists of the theoretical or conceptual framework. However some supervisors may allow you to use a historical analysis or narrative chapter at this point in which case you must ensure that the theoretical framework in your introductory chapter is comprehensive. This chapter is usually 2000 words.

Chapter three is the case study section. This is the focus of the entire work. Here you apply your research question practically and your research confirms or overturns your hypothesis. This may vary between 2-3000 words.

Chapter four is on recommendations and finally chapter five concludes. Each of these chapters is not more than 100 or less words.

## **9 Timeline and meeting with your supervisor**

### ***9.1 Managing your supervisor***

Allocation of a supervisor means that you have to work very closely with the supervisor in a position of a researcher working under a supervisor. However conducting research predominantly tends to be the sole responsibility of the students/ researcher guiding the research and ensuring that it remains focused is

the primary responsibility of the supervisor. This requires that the interaction that takes place must be congenial.

## **9.2 Dissertation timeline**

You must draft an outline of your time line. Your time line will inform you of (a) the number of meetings you will be having with your supervisor. This will also assist your supervisor in keeping a note of his/her meetings with you. The dates and timing of your meetings you will agree on during your first meeting with your supervisor and (b) the time frame within which you are to complete your proposal and chapters.

## **10 Dissertation Format**

### **10.1 Introduction**

Many people assume that any literate person can write a research proposal. This is not automatically true. Writing is a difficult skill to master and one that requires practice and some dedication. Here are some tips to help you in your writing:

- *Always structure your work in advance.*
- *Know what you want to say before trying to write it.*
- *Every sentence must contain one idea only.*
- *Each sentence must follow logically from the one before. A well written text is a "chain of ideas".*
- *While writing, keep your reader's needs in mind. This means providing a "verbal map" of your document so that your reader knows what to expect, and placing "verbal signposts" in your text to explain what is coming next. True ease in writing comes from art, not chance. Alexander Pope, 1688 - 1744.*

### **10.2 Tips on how to format your thesis**

#### **❖ USE OF HEADINGS AND SUB-HEADINGS**

Headings and sub-headings are essential.

They clarify the argument in three ways.

First, like paragraphs, they serve to identify how the building blocks of your argument fit together. If you like, they tell the reader whether this is a big, medium sized, or small component of the work.

Second, they also provide a 'bird's eye view' of the pattern of that argument.

Third, through the 'label' they provide, well chosen headings are an additional way of making the basic point conveyed in the text of that

section of the work. It follows that headings and sub-headings should be organised consistently in a clear hierarchical style.

This format can look much more attractive and better convey the ‘grading’ of your argument and the structure of your analysis.

For example:

*PROVOCATION*

*1. STATUTORY*

*2. COMMON LAW*

*A. Subject Test*

*B. Objective Test*

*I Gravity Characteristics.*

*II Self-Control Characteristics.*

## ❖ FOOTNOTES

These are references included in the text by inserting a numbered marker immediately after the punctuation, preferably in superscript.

Footnotes are numbered consecutively, with the footnote number often followed by a stop and 2 or more spaces or a tab space.

The note itself commences with a capital (upper case) letter. The footnote paragraphs normally use a hanging indent.

Footnotes should appear at the foot of each page.

For example:

1 The footnote is numbered in this instance and followed by a tab space with the footnote commencing with a capital (upper case) letter.

### **When referring to an Author or to a Title Note**

A note to the article TITLE is represented by this symbol - [†]. These are usually used to insert the full citation for the case if it is mentioned in the title or to add a postscript providing information acquired after writing.

A note of the author is represented by an asterisk - [\*]. Place the symbol after the author’s name (which should appear below the title) and use it to include the author’s full name, degree(s), qualifications(s), status and honours. The author note precedes the first footnote.

Please note: When the author is a JUDGE please be sure to list his/her title correctly.



For example: The Honourable I Mambilima Chief Justice of the Republic of Zambia.

### **Citing for the first time**

All initial citations must appear in full in the footnotes.

A citation will usually follow immediately after every phrase, word or quotation to which it refers.

The footnote number should be inserted after the relevant punctuation, unless the footnote refers to a specific word.

Full stops [.] should appear at the end of footnotes.

### **Pinpoint Citation**

Do not use “p” to denote a page number when citing a particular page or pages in a source.

Page numbers preceded by the word “at” will suffice; e.g. ‘at 671-691’ not ‘at ch 11’.

If referring to a range of pages, use a hyphen. Do not use ‘to’ e.g. Regina Graycar & Jenny Morgan, *The Hidden Gender of Law* (1990) at 12-16.

If referring to several specific pages from one source, separate the page numbers with commas: e.g. Regina Graycar & Jenny Morgan, *The Hidden Gender of Law* (1990) at 12, 16.

### **Multiple Citations**

Where several citations appear in the same footnote, separate the citations by semi-colons [;], placing a full stop after the last one.

The works should be cited in descending order of persuasion.

### **Signals**

If referring to a direct authority or source, do not use any prefixes.

The precise citation will be sufficient to support the argument or quotation.

If the sources provide general support for the argument, use “See” or “See, for example”. If additional sources or background information are being provided, use “See also” or “See generally”.

If citing works by way of comparison or contrast, use “Compare” or “Contrast”. Do not use ‘Cf’ or ‘Contra’.

### **Repeat Citations**

Use ***Ibid*** and ***Id***: *Ibid* is used if the reference is to exactly the same citation as that immediately preceding it: e.g.

1. *Koowarta v Bjelke-Petersen* (1982) 153 CLR 168 at 197.
2. *Ibid*.

*Id* is used if the reference is the same work previously cited, but on a different page: e.g.

1. *Koowarta v Bjelke-Petersen* (1982) 153 CLR 168 at 197.
2. *Id* at 195.

Do not italicise these terms or place a comma after them.

Do not use these terms for legislation.

Use ***Above*** and ***Below*** once the full citation has been established in an earlier footnote, subsequent references may be cited in shorthand form. In both the text and footnote citations, the words “above” and “below” should always be used in preference to their Latin words “*supra*” and “*infra*”.

If reference is being made to exactly the same work at the same place cited earlier in the document, simply refer to that earlier footnote in the manner indicated below: e.g.

1. *Koowarta v Bjelke-Petersen* (1982) 153 CLR 168.
2. ...
3. ...
4. *Above* n1.

Note: There is no comma after ‘Above’ and no hard space after ‘n’.

If reference is being made to the same work at a different place, insert ‘at’ and a page number in the manner indicated below: eg.

1. *Koowarta v Bjelke-Petersen* (1982) 153 CLR 168.
2. ...
3. ...
4. *Above* n1 at 175

If the initial footnote has multiple citations, subsequent reference to one source in that initial footnote should clearly indicate which source is being referred to, either in the text or in the subsequent footnote by:-

{1} including the author’s name or case name:

1. *Koowarta v Bjelke-Petersen* (1982) 153 CLR 168; Colin Howard,

*"Two Problems in Excessive Defense" (1968) 84 LQR 343.*

2. ...

3. ...

4. *Howard, above n1 at 349*

{2} where this is not helpful, including both author and abbreviated title:

1. *See for example Ian Leader-Elliot, "Battered But Not Beaten: Women Who Kill in Self-Defense" (1993) 15 Syd LR 403; Ian Leader-Elliot, "Sex, Race and Provocation: In Defense of Stingel" (1996) 20 Crim LJ 72.*

2. ...

3. ...

4. *Leader-Elliot, "Battered But Not Beaten", above n1 at 459.*

5. *Leader-Elliot, "Sex, Race and Provocation", above n1.*

## ❖ FONT SIZE AND MARGINS

**Manuscripts** must be submitted in hard copy and on computer disk.

Note the following requirements:

Manuscripts should be typewritten in 12 point font size, using a True Type font that is easy to read.

The text should be double spaced and typed on one side of A4 size paper, leaving generous margins.

The margins should be as follows:

Left - 3.5 cm

Right - 3.5 cm

Top - 2.5 cm

Bottom - 2.5 cm

**Computer disks** should be formatted to one of the following specifications:

Double-sided, high-density formatted to 1.4 megabytes (3 ½ inch);

The computer disk should be generated using MS-DOS compatible software.

The preferred software package is Microsoft Word.

## ❖ USE OF LANGUAGE

**Non-Discriminatory Language**

Authors and reviewers are referred to the use of gender neutral language.

As a general guide, consider the following:

1. Use *'he or she'* instead of just *'he'*
2. Write in the plural; eg *'when they consider'* not *'when he considers'*
3. Select neutral words; eg *'drafter'* not *'draftsman'*
4. Avoid stereotyping individuals either in negative or positive terms, on their racial or cultural origins; eg *"All Irish are stupid"* or *"Black men jump higher"*

Note: avoid using informal language and slang.

## ❖ USE OF LANGUAGE

The Oxford Dictionary should be consulted to determine correct or preferred spelling and hyphenation.

Here are some guidelines:

1. use the suffix *'ise'* not *'ize'*; eg *'organise'* not *'organize'*
2. use *'our'* not *'or'*; eg *'colour'* not *'color'*

Some commonly misspelt words:

*assessable judgment*  
*by-law lodgement*  
*centring/centred manoeuvre*  
*focusing/focused occurred/occurring*

Note the following:

*'Foregone'* means *'to go before'* or *'to precede in place and time'*.  
*'Forgone'* means *'to go without'* or *'to abstain from'*.  
*'In so far'* is three words, not one.

## ❖ GRAMMAR/ SYNTAX

When editing, ensure that the same tense and person is used throughout or consistently with the meaning of the text.

Check that all prepositions are correct; eg *'conform to'*; *'compare with'*; *'different from'*.

Note the differences between the following terms:

1. effect/ affect

2. lend/ loan
3. practice/ practise
4. number/ amount

## ❖ PUNCTUATION

### **Full Stops**

Do not use full stops within citations or abbreviations of any kind.

Do not use full stops between the initials of for name(s).

Leave a space between the initials instead.

The following words do not require full stops:

*Co Ltd*

*Cth Mr*

*Dr Mrs*

*Hons Pty*

*Inc Prof*

*LLB Vic*

### **Commas**

The most difficult punctuation to insert and edit is the comma.

When editing and proofreading, the best method for checking accurate use of the comma is to read the text aloud to oneself or to a team member(s).

Ensure that the insertion or removal of commas do not affect the meanings or the emphasis in any sentence.

### **Capitals**

When a word is being used adjectivally rather than to describe a specific entity, the lower case should be used.

Note the important distinction between descriptive geographical designations and specific ones; eg 'Western Europe' but not 'northern France'

### **Words to Capitalise:**

*The Act if referring to a specific act; eg Companies Act*

*The Zambian Government but not the government*

*The Constitution but not constitutional*

*The High Court but not the court  
Commonwealth  
The Minister of Justice*

**Do not capitalise:**

*the common law  
administrative law (or other general subject areas of law)  
judge(s)  
legislature  
the press (or the media)*

**Italics**

As a general rule, the use of italics should be minimised.

**The following words should be italicised:**

*en ventre sa mere  
jus cogens  
non est factum  
novus actus interveniens  
quantum meruit  
res ipsa loquitor*

All other foreign words not found in the Oxford Dictionary should be placed in italics.

Any word that the author wishes to place special emphasis upon may also be italicised.

**The following words are NOT italicised:**

a fortiori inter alia  
a priori ipso facto  
ad hoc per se  
bona fide prima facie  
de facto pro rata  
de jure pro tanto  
de minimis raison d'être  
de novo stare decisis  
et al subpoena  
habeas corpus ultra vires

## **Numerals**

Figures should be used:

1. for dates, temperatures, addresses and mathematical calculations
2. for numbers of sections, clauses, paragraphs
3. for numbers 10 and over
4. for all percentages; eg '12 per cent' (Note the use of per cent, not %)

Figures should NOT be used:

1. for numbers below 10; eg one to nine
2. for money amounts over five figures; eg \$1000, \$10 000 but \$10 million

## **Dates**

Use the following examples as a guide:

1 January 1991  
1990s (note: no apostrophe)  
1990-1  
1987-97  
20th century

## **Headings and Lists**

Headings and lists should be organised consistently in the following style:

- 1.
2.
  - A.
  - B.
    - i.
    - ii.

## **❖ USING QUOTATIONS**

### **General Format**

- Any material which is taken word for word from a source must NOT be altered.
- Single quotation marks are used for emphasis and actual short quotations.
- Double quotations marks are reserved for quotes within quotes.

## **Short and Long Quotes**

- Short quotations use less than three lines.
- These should be included in the text and enclosed by single quotation marks. Do not indent: e.g.

*As Kirby J said, the Australian judge is 'a riddle, wrapped in a mystery inside an enigma.'*

Note: this style applies to quotations in footnotes, regardless of their length. Long quotations exceed three lines.

- Begin these on a new line and INDENT the whole paragraph.
- Do not enclose them in quotation marks.

Type with a smaller font size (preferably 10 point).

Ensure to leave a line before and after the quoted passage: e.g.

*According to Kirby J: Judges are important in our country. Their importance increasingly extends beyond the courtroom. For most, the Judge emerges in court, hears the case, gives judgment and disappears again behind the curtain. He is, like Churchill's Russia, a riddle, wrapped in a mystery inside an enigma. This issue should not be overlooked, as it highlights...*

## **Edited Quotes**

Any editorial additions or interpolations introduced by the author into quoted passages must be enclosed in square brackets.

Similarly, when capital letters opening quotes need to be added or removed to suit the sentence being quoted, use square brackets: e.g.

*[T]he Judge emerges in court, hears the case, gives judgment and disappears again behind the curtain.*

If added emphases are placed on particular words or phrases in a quoted passage or sentence by the author, these must be acknowledged in the following manner: e.g.

*No judge in England or Australia has yet written a revealing autobiography disclosing 'all' about his judicial life. Indeed, few have written anything beyond their judgments. As most disdain interviews...little is known about them or their ways. [Emphasis added.]*

Note: the use of capital 'E' in 'Emphasis and the full stop inside the brackets.



### **Omissions from quotations**

THREE dots (ellipses) are used to indicate an omission from a quotation when the omitted portion is short: ‘...’

FOUR dots are used if the portions omitted are long; for eg when the omission has run to the end of the sentence and includes at least part of the next sentence if not more: ‘....’

*Judges are important in our country. Their importance increasingly extends beyond the courtroom .... For most, the Judge emerges in court, hears the case, gives judgment and disappears again behind the curtain. He is...a riddle, wrapped in a mystery inside an enigma.*

### **Errors or discriminatory terms in quoted passages**

Spelling errors or discriminatory terms do not need to be edited or altered if being directly quoted.

However, the error or affected term in question may be followed by the italicised word ‘sic’ enclosed in square brackets: e.g.

*For most, the Judge emerges in court, hears the case, gives judgment and disappears again behind the curtain. He [sic] is...a riddle, wrapped in a mystery inside an enigma.*

## **❖ CITING BOOKS**

### **Order of Citation**

#### **a. Single Author**

1. Author (either person(s) or organisation(s)) or editor. Cite the given name(s) followed by the surname of the author. Place a comma after the surname. If there is no author, begin with the book title.
2. Place a comma after the last surname.
3. The book title (using leading capitals) in italics. If there are subtitles, separate these from the main title by a colon [:].
4. Parentheses enclosing:
  - i. the edition if it is not the first. Type this in numerals followed by ‘st’, ‘rd’ or ‘th’ as the case may be. Abbreviate edition to ‘ed’ and follow this with a comma;
  - ii. the year of publication.
5. If pinpoint citing, insert the word ‘at’ followed by the specific page numbers.
6. The citation concludes with a full stop.

**EXAMPLE:** Michel Foucault, *The Order of Things: An Archaeology of the Human Sciences* (2nd ed, 1970).

Note: there is no comma after the title and before the parentheses.

***b. Multiple Authors***

All authors of the publication are to be listed.

Do not use 'et al' for INITIAL citations.

Use commas and an ampersand [&] to separate the names:

**EXAMPLE:** Tony Blackshield & George Williams, Australian Constitutional Law and Theory: Commentary and Materials (1998).

***c. Institutional Authors***

Treat government publications and institutional authors in the same manner as standard authors in citations:

**EXAMPLE:** Australian Chamber of Commerce, Proposals for Taxation Reform (1980).

***d. Editors***

If the book has an editor(s) as opposed to an author, indicate as such by inserting the abbreviation 'ed' or 'eds' in parentheses after the last name and before the comma:

**EXAMPLE:** Andrew Parkin, John Summers & Dennis Woodward (eds), Government, Politics, Power and Policy in Australia (5th ed, 1994)

***e. Contributors***

If the citation is concerned with an article contributed to a book, then the work should be cited in the same manner as journal articles. For details, see journals and periodical citation below:

**EXAMPLE:** Graham Davis, "Executive Government: Cabinet and the Prime Minister" in Andrew Parkin, John Summers & Dennis Woodward (eds), Government, Politics, Power and Policy in Australia (5th ed, 1994).

❖ **CITING REPORTED CASES – AUSTRALIA/UK**

**Order of Citation**

1. The name of the case in italics as it is reported. Note that the ‘v’ is also in italics and in lower case. Do not put a comma after the case name.
2. The year that the case was reported, surrounded by square or round brackets (see below).
3. The volume number, if available. Otherwise square brackets have been used.
4. The abbreviated case reporter. Do not separate the abbreviated letters with full stops. Check the last section on abbreviations if unsure or consult the World Dictionary of Legal Abbreviations or the Australian Case Citator and other search tools for examples
5. The page number of the first page of the case.
6. In parentheses, the word ‘hereinafter’ followed by the popular or shortened name of the case, if any, in italics.
7. If pinpoint citing, insert the word ‘at’ followed by the specific pages and the judges’ names in parentheses.
8. The citation concludes with a full stop.

### EXAMPLES

#### Using round brackets

Mabo v Queensland (No 2) (1992) 175 CLR 1 (hereinafter Mabo) at 17 (Brennan CJ).

#### Using square brackets

MacShannon v Rockware [1977] 2 All ER 449.

### ❖ CITING JUDGES

When citing a particular judge from a reported judgment, place the name of the judge in parentheses following the page number:

**EXAMPLE:** Breen v Williams (1996) 186 CLR 71 at 77 (Brennan CJ).

If more than one judge is being cited, place a comma after each parentheses, followed by the page number and the next name in parentheses.

Do not use the word ‘at’ every time:

**EXAMPLE:** Breen v Williams (1996) 186 CLR 71 at 77 (Brennan CJ), 84 (Dawson & Toohey JJ), 99 (Gaudron & McHugh JJ) and 115 (Gummow J).

Note: ampersands [&] are preferred to the word ‘and’ when judges have given joint judgments and the citation is completed with a full stop [.]

## ❖ CITATION OF PUBLISHED PAPERS

### Order of Citation

1. Cite the given name(s) followed by the author's surname.
2. Place a comma after the last surname.
3. The title of the paper (using leading capitals) in single quotation marks. (If there are subtitles, separate these from the main title by a colon [:].)
4. Follow with the word 'in'.
5. The conference organisers, followed by a comma.
6. The conference title, in italics.
7. Parentheses enclosing:
  - (i) The place of publication (city only, otherwise the abbreviated state), followed by a comma;
  - (ii) Publisher if available, followed by a comma;
  - (iii) The year of publication.
8. Conclude the citation with a full stop.

**EXAMPLE:** Benjamin Brown, 'Family Disputes and Tax Planning' in Taxation Institute of Australia, Papers Presented at the Fifth National Convention (Sydney, 1980) at 43-46.

## ❖ CITATION OF UNPUBLISHED PAPERS

### Order of Citation

1. Cite the given name(s) followed by the author's surname.
2. Place a comma after the last surname.
3. Name of the paper in single quotation marks, followed by a comma.
4. Description of the seminar or conference. This will usually include:
  - i. what was presented (paper, demonstration);
  - ii. type of conference (seminar, conference, workshop, symposium);
  - iii. organisers;
  - iv. the date of the conference.
5. If there is a pinpoint citation, the word 'at' followed by the page number.

**EXAMPLE:** Nigel Douglas, 'Freedom of Expression Under the Australian Constitution', paper presented at the Western Australia Law Summer School, 19 Feb 1993 at 15.

## ❖ CITATION OF GOVERNMENT AND PRIVATE PUBLICATIONS

## **I. Discussion Papers / Reports**

### **Order of Citation**

1. Institutional author or jurisdiction and department responsible for the publication, followed by a comma.
2. The official title in italics. This usually includes the type of report ie interim or final report, discussion paper, working paper. If not, insert the type after the popular name.
3. In parentheses:
  - i. Place of publication, followed by a colon [:];
  - ii. Abbreviated publisher name, followed by a comma;
  - iii. Year of publication.
4. If there is a pinpoint citation, the word 'at' followed by the page number. If it is a chapter, use the first and last page of the chapter. Do not cite chapters.
5. The word 'hereinafter' followed by the popular name of the report, if any, in italics and in parentheses (these may also be the Chair's or the Commissioner's name).
6. The citation is concluded with a full stop.

**EXAMPLE:** Treasury, Financial System Inquiry: Final Report (Canberra: AGPS, 1997) At 1-12 (hereinafter Wallis Report).

## **II. Law Reform Commission Reports**

### **Order of Citation**

1. Jurisdiction (do not abbreviate) followed by 'Law Reform Commission' and a comma. (Note: for Federal reports, the jurisdiction is 'Australian'.)
2. The title of the report in italics.
3. The report number, if any.
4. The year the report was released.
5. If there is a pinpoint citation, the word 'at' followed by the page number. If it is a chapter, use the first and last page of the chapter. Do not cite chapters.
6. The citation is concluded with a full stop.

**EXAMPLE** Australian Law Reform Commission, Complaints Against Police Report No 1 (1975).

## **❖ CITING NEWSPAPERS/ MAGAZINES**

### **Order of citation**

1. The author's given name and surname, if available, followed by a comma. If no author is shown, start with step 2.
2. The title, in single quotation marks, followed by a .
3. The name of the newspaper in italics. Give the full name of the newspaper in the first citation. Subsequent citations may use abbreviations such 'AFR' and 'SMH'.
4. In parentheses, the day, month and year of print. Do not place commas between these items.
5. The word 'at' followed by the page number(s) on which the article appears.
6. The citation concludes with a full stop.

**EXAMPLE:** Kerry Kissane, 'Rape's Rough Justice - Judges, Juries and the Public Struggle with the Meaning of Consent to Sex' *Time Australia* (25 Jan 1993) at 38-39.

#### ❖ **CITING PRESS RELEASES**

##### **Order of Citation**

1. Person(s) and/or organisation responsible for issuing the press release. If citing government ministers who hold more than one portfolio, refer only to the portfolio pertaining to the press release.
2. Title of the press release in italics. This should include some indication that the document is a press release.
3. Date of the press release in parentheses, ie day, month and year.

#### ❖ **CITING ACTS / LEGISLATION / STATUTES**

Essential elements for Australian and UK Acts:

1. The name of the Act - the short title, in italics.
2. The year the Act was passed. Do not place in italics. Do not include the year last amended.
3. The jurisdiction of the legislation, abbreviated and in parentheses.
4. If pinpoint citing, abbreviate 'section' to 's'. Do not place a full stop after 's', then insert the number.
5. For other abbreviations, see below.
6. The popular name in italics, inserted after the word 'hereinafter', all in parentheses.
7. The citation concludes with a full stop.

**EXAMPLE:** Community Protection Act 1994 (NSW) s27(2) (hereinafter Kable Act).

## ❖ CITING BILLS

Essential Elements:

1. Name of the Bill. Do not place in italics.
2. The year of introduction. Do not place in parentheses or in italics.
3. The jurisdiction of the Bill, abbreviated and in parentheses.
4. If the Bill has been amended during its passage through parliament, place the words 'as amended' or the reading of the Bill (First, Second or Third).
5. If pinpoint citing, insert the word 'clause', abbreviated to 'cl', followed by the number(s).
6. The citation concludes with a full stop.

**EXAMPLE:** Second Corporate Law Simplification Bill 1996 (Cth) (Third Reading), cl246A.

## ❖ CITING PARLIAMENTARY DEBATES

Essential elements:

1. If the speaker name is not included in the body of the text, place the speaker's name in the citation, followed by a comma. Otherwise, start at step 2.
2. The political jurisdiction, abbreviated, followed by a comma.
3. The House of Parliament in which the debate occurred, followed by a comma.
4. The title of the publication in italics; this can either be 'Parliamentary Debates (Hansard)' or 'Weekly Hansard' or 'Votes and Proceedings'.
5. The day, month and year.
6. If there is a pinpoint citation, the word 'at' followed by the page number.
7. The citation is concluded with a full stop.

**EXAMPLE:** Roger Croom, Tasmania, House of Assembly, Parliamentary Debates (Hansard), 11 November 1992 at 4838.

## ❖ CITING CD ROM DATABASES

*Materials with Hard Copy Versions*

**Order of Citation**

1. Give the citation to the hard copy, from information in the CD Rom, using the rules for hard copy referencing provided above, followed by a colon [:].
2. Title of the database, in italics.
3. The publication medium, ie the words 'CD ROM'.
4. Parentheses enclosing:
  - a. place of publication, followed by a colon;
  - b. name of publisher, followed by a comma;
  - c. electronic publication date, followed by a comma,
  - d. version number or identifier, if available (if not published periodically, skip this step.).
5. If pinpoint citing, cite electronic page to the extent possible.
6. The citation concludes with a full stop.

**EXAMPLE:** Stanley Surrey, Pathways to Reform: The Concept of Tax Expenditures (1973) Tax Books on Disc CD Rom (Location: Publisher, May 1996) at 59.

### **Materials with No Hard Copy Versions**

#### **Order of Citation**

- a. Author details using hard copy methods (shown above), followed by a comma.
- b. Title of the material accessed, in single quotation marks.
- c. Date of the material (if given) followed by a colon [:].
- d. Title of the database in italics.
- e. Publication medium, ie 'CD ROM'.
- f. Parentheses enclosing:
  - i. Place of publication, followed by a colon;
  - ii. Name of the vendor or publisher;
  - iii. Electronic publication date;
  - iv. Version number or identifier, if available (if not published periodically, skip this step.)
- g. If pinpoint citing, cite electronic page to the extent possible.
- h. The citation concludes with a full stop.

**EXAMPLE:** Computer Law Services, 'Family Law' Aug 1997: State Legislation CD ROM (Sydney: CLS Aug 1997).

## **❖ CITING FROM THE WORLD WIDE WEB (WWW) SITE**

### **Materials with Hard Copy Versions**

#### **Order of Citation**



1. Give the citation to the hard copy, from information in the site, using the rules for hard copy referencing, followed by a colon [:].
2. The URL, enclosed in angle brackets [< >].
3. Specific page or location (if required), to the extent possible.
4. The date of visit in parentheses.
5. Citation concludes with a full stop.
6. {a} Citing a report

**EXAMPLE:** Australian Law Reform Commission, The Recognition of Aboriginal Customary Laws Vol 2 Report No 31: <http://www.austlii.edu.au/au/special/rsjlibrary/alrc/custlaw22/2.htm> (10 Feb 1998).

### *Citing a case*

The Commonwealth of Australia v Tasmania (1983) 158 CLR 1 (Tasmanian Dam Case) : [http://www.austlii.edu.au/au/cases/cth/high\\_ct/158clr1.html](http://www.austlii.edu.au/au/cases/cth/high_ct/158clr1.html) (5 Sept 1997).

### *Materials with No Hard Copy Versions*

#### **Order of Citation**

1. The author's name (if known or necessary), followed by a comma OR the full title of the document in quotation marks OR the title or name of the case or legislation as the case may be.
2. The title of the complete work if applicable, in italics.
3. The date of publication or last revision (if available).
4. The URL, enclosed in angle brackets [< >].
5. Specific page or location (if required), to the extent possible.
6. The date of visit in parentheses.
7. Citation concludes with a full stop.

**EXAMPLE:** News Ltd v Australian Rugby Football League et al 1 Oct 1996 (Full Federal Court, No. 96000870): [http://www.austlii.edu.au/cases/cth/federal\\_ct/96000870.html](http://www.austlii.edu.au/cases/cth/federal_ct/96000870.html) (1 Oct 1996).

## ❖ **BIBLIOGRAPHY**

A research paper bibliography is the section of a document in which you will include all relevant resources that you have used in order to create the document.

Research paper bibliographies can include a few resources to many dozens of resources, depending on the level of information you have used during your research. The minimum recommended number of resources is usually about eleven. In order to write a research paper bibliography, you will need to include the name of the publication that you have used for the research, its author(s), publication date, publisher, and any page numbers that you referenced. A bibliography can include sources for books, periodicals, journals, magazines, Web pages, and more.

There are specific formats that you should use for the document bibliographies. Different universities recognize different formats. It is important for you to be aware that when you include a bibliography in your documents, the bibliography should refer to a specific resource that you used. Research paper bibliographies also only include those materials that you used first-hand. In some cases, if you have used another report or resource that has its own set of resources, you will mistakenly copy his or her resources bibliography. For example, if you used another person's dissertation as a resource, then you may copy all of the references from that dissertation bibliography to use in your own study. However, you should only include references that you used directly - not second-hand **resources**. **Having a bibliography shows intense research on your part and aid in avoiding plagiarism.**

#### Illustration

##### *Textbooks*

- *Antonio Cassese, International Law, 2<sup>nd</sup> ed. (Oxford University Press, Oxford, 2005).*
- *Ian Brownlie, International Law and the Use of Force by States, (Clarendon Press, Oxford, 1963).*
- *Mary Ellen O' Connell, International Law and the Use of Force, (Foundation Press, New York, 2005).*

##### *Journal Articles*

- *Abraham Sofaer, 'Terrorism, the Law and the National Defense,' 126 Military Law Review 89 (1989).*
- *Carsten Stahn, "“Nicaragua is Dead, Long Live Nicaragua”: The Right to Self-Defense under Art 51 UN Charter and International Terrorism" (Paper presented at the Impressum Conference, Terrorism as a Challenge for National and International Law, Max Planck Institute for Comparative Public Law and International Law, Heidelberg, Germany, 24–25 February 2003) 27 <http://edoc.mpil.de/conference-on-terrorism/present/stahn.pdf>*

*Constantine Antonopoulos, "Force By Armed Groups As Armed Attack And The Broadening Of Self Defense", Netherlands International Law Review 159-180 (2008)*

#### ❖ TABLES

Tables should be numbered consecutively and each should have a title which provides a brief explanation of what it refers to. Columns (vertical) and rows (horizontal) in tables should be labeled clearly to indicate both the variables (items, or concepts) included in the tables and the values that categories of those variables take.

It may be appropriate to include footnotes to a table to explain missing values, abbreviations used, the statistical significance of a given value, or otherwise to clarify data summarised in the table.

Such a footnote should appear immediately below the table, not at the bottom of the page. Footnotes to tables typically use the marks (a), (b), (c) and so on to avoid confusion with data or with other reference marks. Where the table is reproduced from another source, this should be indicated by including author, date and page number within parenthesis immediately following the table.

## ❖ FIGURES

They must be numbered consecutively (please note that figures and tables are numbered in separate series so that where a table is followed by a figure, you will number them Table 1 and Figure 1, not Table 1 and Figure 2).

Each must have a heading which provides a brief summary of what is addressed by the figure.

There are many possible forms which graphs and diagrams may take.

You should ensure that you label them carefully so that they are meaningful to the reader.

Please ensure that you use a key to aid interpretation where that might be helpful. Where the figure is reproduced from another source, this should be indicated by including author, date and page number within parentheses immediately following the figure.

## ❖ APPENDICES OR APPENDIXES

Appendices should be numbered consecutively, and each should have a heading which briefly described what it contains.

Appendices are typically located after the text but before the references.

## ❖ ABBREVIATIONS

Abbreviations in the text should be used sparingly, and usually confined to those in common usage.

Do not use forms such as etc, or eg in the text - spell them out in full. It may be appropriate to abbreviate the name of an organisation or concept which is lengthy, but always include the full name, and the abbreviated form in parentheses the first time it is used.

For example:

Zambia Revenue Authority (ZRA)

Patents and Companies Registration Office (PACRA)

### 10.3 Appendix A: FAQs

#### 1. What should I expect?

*Research proposals have many different functions. Some of these are:*

- *To convince other people, like other researchers, research funding agencies, educational institutions, and supervisors, that your research is worth spending scarce resources on. You convince people of the value of your work by showing them how your research will make a difference to the world, or by identifying a dilemma in existing theory which your research will help resolve.*
- *To demonstrate expertise in a particular area of study. You want to convince people that you have enough understanding of the research topic to be able to do the research properly. You do this by intelligently summarizing, comparing and integrating all the relevant theory and existing research pertaining to your topic.*
- *To demonstrate competency in a particular area of study. It is also vital that your proposal convinces the reader that you have all the necessary skills to carry out the proposed study. You do this by describing an appropriate and feasible research method.*
- *To serve as a contract. Research often involves contracts between different individuals or groups or people. The proposal states clearly what each party is expected to bring*

#### 2. Why do I need a research proposal?

*To the research, how resources will be used, and when the research should be completed.*

- *To serve as a planning tool. Many research projects fail because they are not properly planned. Even when badly planned research does eventually reach its conclusion, it is typically very stressful to the researcher. When a clear plan of action is in place from the beginning the research is much more likely to proceed smoothly and to be successful.*

#### 3. So how do I start?

##### • **Theory**

*In many areas of the social sciences and humanities there exist competing theories. That is, different theories that explain the same phenomenon in different ways. By examining the different theories carefully it is possible to design research questions which will help us to understand which theory is more accurate. Thus, conflicting theoretical positions are an important source of research questions.*

##### • **Previous research**

*No study ever answers all the questions that we want to ask about a particular subject. New research findings nearly always inspire new research questions. Sometimes, it is because these findings are surprising, or because they conflict with existing theory, or other research findings. Perhaps the most famous example of conflicting theories*

generating a wealth of new research and knowledge comes from the realm of physics. The work of scientists like Max Planck and Ernest Rutherford produced an apparent paradox. They demonstrated that light displayed the characteristics of both a stream of particles and a wave. The fact that these two models are mutually incompatible, led physicists to question the most fundamental principles of classical physics resulting in the birth of a whole new area of scientific work, namely quantum physics.

- **Practical concerns**

Very often researchers will be confronted by a problem in their own lives or become aware of the problems facing other people in their community. Much research is aimed at solving immediate problems in the world.

- **Personal interest**

Finally, it is often the case that researchers have their own special areas of interest, and that their interest inspires their research topics. Philosopher and sociologist Michel Foucault spent close to 30 years demonstrating that many fundamental ideas about human nature and society, which people usually understand to be unchanging, vary with the course of history. His work contests the influence of thinkers like Karl Marx and Sigmund Freud, and challenges our assumptions about a wide range of issues, including prisons, policing, insurance, mental illness, sexuality and welfare. Look in many different places at the same time. Read, talk to people, and look closely at the world around you. The increasing rate of HIV infection in Southern Africa has challenged researchers to develop the most effective strategies for changing human sexual behaviour. In this way, and countless others, social scientists are responding to a practical concern arising in their world. It is always a good idea to generate several possible research questions and then choose the best one. After all, you wouldn't walk into a shop and buy the first shirt that you saw. Instead you would look at several shirts, compare them, and purchase the one that suited you best. The same applies to research questions. Every research question has strengths and weaknesses and the choice of the "best" topic is sometimes a subtle one. The following is a list of criteria which can be used to judge the usefulness of a research question. It is not a complete list so make sure that you add your own criteria in order to be sure that your final choice matches your needs.

- Do you have access to the information needed to answer the question?
- Does your question have suitable theoretical background? (This is particularly important where research is being undertaken for degree purposes).

4. There is too much to read! I can't keep up!

Reading takes time but it is time well spent. Make sure that you create enough time in your week to read. Make sure that your reading time is uninterrupted. Make a list of all the articles and books you think you should read, and note down the bibliographical details. Prioritize your reading so that you start with the most relevant items and gradually get more general.

5. There are too many ideas! I can't make sense of all of them.

Find a general article or book that will provide a "map" of the theoretical landscape. (Try asking more experienced researchers or your supervisor for assistance). Try to fit all your subsequent reading on to this "map".

6. I don't understand what I am reading.

Find an introductory text which introduces the main concepts and theoretical language in your undergraduate textbooks are often a good place to start but you should discuss this problem with more experienced researchers in your area, or with your supervisor. When reading a text try to "pin down" the concepts or arguments that you do not understand. Make an appointment to discuss the article with a more experienced researcher in your area, or your supervisor.

7. I forget everything that I read!

*Make sure that you have a proper "map" of the theoretical territory. If you have a map into which you can fit new information, you will find it easier to understand and remember. Take clear detailed notes of everything that you read. Always keep your research question in mind to avoid recording pages of information which are not relevant to your work. "The reading of all good books is like a conversation with the finest men of past centuries." Rene Decartes (1596 – 1681)*

#### ***10.4 Appendix B: EVALUATION FORMS FOR RESEARCH PROPOSALS***

##### **Problem identification**

1. Is the research problem/line of enquiry clearly identified?

Very poor	Poor	Satisfactory	Good	Excellent
-----------	------	--------------	------	-----------

2. Are the aims and/or objectives of the research clearly specified?

Very poor	Poor	Satisfactory	Good	Excellent
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##### **Background**

3. Has appropriate literature been examined to contribute to the understanding of the research problem and/or conceptual framework for the study?

Very poor	Poor	Satisfactory	Good	Excellent
-----------	------	--------------	------	-----------

4. Have other relevant sources been reviewed?

Very poor	Poor	Satisfactory	Good	Excellent
-----------	------	--------------	------	-----------

##### **Approach**

5. Are the conceptual framework and theoretical assumptions clearly stated?

Very poor	Poor	Satisfactory	Good	Excellent
-----------	------	--------------	------	-----------

6. Are the proposed research methods clearly outlined?

Very poor	Poor	Satisfactory	Good	Excellent
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**10.5 Appendix C: In some Universities this is the Criteria for Examination of Dissertations**

Student Name: \_\_\_\_\_ Reg. No: \_\_\_\_\_

Topic: \_\_\_\_\_

Supervisor: \_\_\_\_\_

	Issue to be Graded	Grade (%)			
		Max Mark %	Supervisor	External Examiner	Final Grade
1.	ID of Statement of Problem	5			
2.	ID of issues arising	5			
3.	Articulation of Hypothesis/ Arguments	10			
4.	ID & Articulation of theoretical framework	10			
<b>Subtotal</b>		<b>30</b>			
5.	Familiarity with Literature	20			
6.	Contribution to knowledge in area	10			
<b>Subtotal</b>		<b>30</b>			
7.	Thoroughness in use of citations	10			
8.	Presentation (grammar, spelling, clarity)	10			
9.	Conduct during Preparation (supervisor only)	10			
10.	Submission on time and keeping to word count	10			
		<b>40</b>			
<b>Total Grade for Thesis</b>		<b>100</b>			

Comments:

Signature of:

Date:

Supervisor \_\_\_\_\_