



Guidelines on Academic Legal Research Methodology

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Guidelines on Academic Legal Research Methodology

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Chapter 1: Introduction to Legal Research

By Dr. Perrine SIMON and Pangthong XAYYAVONG

1.1 The role of this guide

A guide for academic legal research – The objective of this guide is to define policies and expectations in relation to the conduct of *academic* research in the field of *law*. It aims to help researchers – lecturers and students – and to serve as a benchmark for academic and legal writing so that the Faculty of Law and Political Science (FLP), National University of Laos (NUoL) complies with globally accepted conventions for legal academic writing. It is important in order to align with other law faculties and institutes around the world to adopt higher standards to strengthen the quality of legal research. Guidelines that are specific to legal research are needed in order to better reflect the specificity of legal research and of law as an autonomous concept and field of study. Indeed, as illustrated below, legal research has its own reasoning and methods, ranging from doctrinal to more interdisciplinary approaches. This distinguishes research in law from research in the humanities and social science, including in political science.

This manual is designed to guide legal academia, not only the students but also law lecturers. Law lecturers should follow these guidelines when supervising students' dissertations as well for their own research projects (articles, textbook, etc.). The standards set here will benefit all of these stakeholders. Lecturers, who are required to undertake legal research as part of their professional commitments (teaching *and* research), can benefit from this guide to produce research output respecting more uniform and higher standards. Law students are also expected to be good researchers as part of their university curriculum and to be able work in the legal field as practitioners. This guide will help them to find appropriate research topics, sources and to strengthen the coherency of their final project, master's thesis and doctoral dissertation. To pursue higher research standards of scholarly and scientific integrity, this guide also sets basic rules about academic integrity and plagiarism.

The recommendations given in this document are standards to guide you and do not provide specific structures or research questions to adopt; these will have to be discussed with your research supervisor or advisor.

1.2 What is legal research?

All research involves the identification of a research problem, the formulation of a hypothesis, the collection, organisation and evaluation of relevant data, and the making of deductions and formulation of conclusions, etc. Academic research requires a sound design for investigation, the appropriate methods of data collection and a mode of analysis. Each field analyses different types of data and often different disciplines will have different methodologies if not their own methodology (ies).

A legal research is therefore a *scientific research*, which addresses the subject of *law* through process of searching for expanding knowledge on a specific topic through a scientific and systematic investigation.

The following dimensions can be identified to define legal research: 1) the law as the *focus* of research; 2) *sources* of law; and 3) the *purpose* of legal research.

1) Research focus on law – When doing *academic legal research*, the *object (focus) of investigation is the legal framework* – the norms/rules usually enacted by a government and sanctioned by the State institutions – that is used to regulate social conduct, compulsory for all members of society. Regardless of the individual approach chosen (for example doctrinal, comparative, historical, empirical, etc.), it will always focus on a legal issue and use legal sources as its “raw” material.

Legal research is the finding and assembling of authoritative sources (“*authorities*”¹) that are relevant to examine a question of law.

2) Sources of law – Sources of law are an important criterion for defining what legal research is. Traditionally, in legal research, authoritative texts like legislation, judgments and doctrinal literature are considered the main formal sources of information for understanding positive law (the existing/enacted law). Legal research may also focus on customary law which is recognised as a source of law by most legal systems (to a varying extent) and by International law. *Legal research is therefore generally understood as the process of identifying, and analysing the laws – including international instruments, statutes, regulations, court decisions and customary norms – that apply to the research topic in question.*

Legal research very often includes commenting on rules and on courts judgments in national and international legal domains, and may include suggesting policy improvements (change in the

¹ The term “authority” here is a synonym of source/reference. See for example, OSCOLA stands for the “Oxford University Standard for Citation of Legal *Authorities*”.

legislation). It can also focus on how legal rules should be applied in concrete cases, for example from the perspective of guiding legal principles like *legal certainty*.²

Legal research also often includes academic comments on judicial decisions. In most countries, regardless if they are ‘common law countries’ (where judges make the law/ case-law is a formal source of law) *or* ‘civil law countries’ (where judges interpret the law/the case-law is an informal source of law)³ commentary of court decisions is an essential part of legal scholarship as well as a point of reference for practitioners. Case-law commentaries explain what a judgment does not explicitly say and comment on the choices made by the courts, by analysing the reasoning of the judge (by comparing it to the text of the law applied, or with earlier decisions interpreting the same law or existing literature on the topic, etc.). Legal scholarship (the work of law scholars) is generally published in dedicated law journals and books, which makes libraries and nowadays e-libraries/online databases the prime location of research for lawyers. Legal research is largely synonymous of desk research in this sense.

In the context of Lao PDR, a range of justice mechanisms co-exist with some being based on customary or informal mechanisms (e.g., Council of Elders, Village Mediation Units, etc.).⁴ At the local level, customary norms are not written and may provide a legal and normative framework of interest for legal research.

It should be noted that legal sources are not the prerogative of lawyers only. They are often used for research in other disciplines, such as history, sociology, or political science but historians, sociologists or political scientists use the legal sources for a *purpose* or result different from that of a jurist. They would examine through legal sources a question of history, sociology or political science but not through a “question of law.” Legal research indeed aims at specific purposes.

3) Purposes of legal research – Law is not a fixed/stagnant thing set in stone, but it is something always evolving, which operates in a complex ‘social setting’. Indeed, law reflects social attitudes and behaviours and evolves with societal changes. Law must also regulate scientific and technological developments (e.g., internet, social media, etc.). Law is therefore in

² The principle of legal certainty is a fundamental aspect of rule of law which requires that all laws be sufficiently precise to allow citizens to foresee the consequences which a given action may entail (see, Law on Making Legislation, art. 1 (2012): all law must be of “*quality, completeness, is easy to understand, implementable*”).

³ Lao PDR is generally classified as a civil law legal system but features aspects of ‘socialist’ legal systems. The interpretation of the law can also be made by the National Assembly Standing Committee under the procedure foreseen in Article 56 of the Constitution, and described in Article 113 of the Law on Making Legislation (Interpretation of Legal Terms).

⁴ On this, see UNDP Democratic Governance Thematic Trust Fund, *Customary Law and Practise in Lao PDR* (Ministry of Justice: Law Research Cooperation Institute, 2011), accessed 13 October 2021. https://www.la.undp.org/content/dam/laopdr/docs/Reports%20and%20publications/Customary_Law_Laos2011_english_master1.pdf; also in Lao language https://www.la.undp.org/content/dam/laopdr/docs/Reports%20and%20publications/Pages%20from%20Customary_law_Laos2011_lao3.pdf.

perpetual evolution, shaped by politics and changes in policies, and this requires legal knowledge and legal research to be continuously updated. *Legal research can be necessary for different purposes, which can be combined, such as determining the law on a given topic, highlighting ambiguities or weaknesses of law, explaining the rationale of the law or making suggestions for improvements, etc.* Different purposes translate into different types of research but are often combined (e.g. descriptive, explicative, interpretative, empirical, logical, conceptual/theory building, etc.⁵).

The purpose of your legal research may be to *determine and clarify the law on a given topic*. This might be an interesting approach when there are a number of laws (as well as legal provisions scattered in different laws) with frequent amendments on the subject under inquiry. This can be the case when several legal reforms are added on the top of each other making the legal framework on a particular issue unclear. Modern States have adopted many rules and regulations in recent history, as did Lao PDR, and as a result the legal framework is often highly fragmented with relevant laws difficult to find. Legal norms are developed over long periods of time, and not necessarily mutually coordinated to ensure compliance. Such descriptive legal research can lead to highlight the ambiguities and inbuilt weaknesses of the law.

Your legal research may as well aim at *critically examining legal provisions, principles or doctrines to test the clarity, consistency and coherence of the law/legal system on a certain aspect and its underlying policy*. This can for example be done by assessing if the law on a particular issue is respecting a given normative legal framework (e.g., a fundamental principle enshrined in the Constitution, one or several general guiding legal principles, a specific international instrument, etc.). “Legal principles” play an important double role in legal research: on the one hand they guide the legal reasoning by lawyers; and on the other hand, they also serve as points of orientation in “doctrinal research.”⁶

Your legal research can also be undertaken as part of *a process of law reform*, meaning for making suggestions to improve the law on a concrete matter by formulating specific proposals. In this case, it might be interesting to look at the law in its context (understand its historical or sociological context) or at how the same issue is dealt with in another country (comparative law approach).

⁵ Types of legal research are categorized differently depending on the author. See for example Van Hoecke identifying seven types of legal research *explanatory* (explaining the law, for instance by diverging historical backgrounds in comparative research); *empirical* (identification of the valid law; determining the best legal means for reaching a certain goal – the ‘best solution’ in comparative law); *hermeneutic* (interpretation, argumentation); *exploring* (looking for new, possibly fruitful paths in legal research); *logical* (coherence, structuring concepts, rules, principles (...)); *instrumental* (concept-building); *evaluative* (testing whether rules work in practice, or whether they are in accordance with desirable moral, political, economic aims, or, in comparative law, whether a certain harmonisation proposal could work, taking into account other important divergences in the legal systems concerned). Mark Van Hoecke. (Preface, VI), *Methodologies of Legal Research : Which Kind of Method for What Kind of Discipline?*, European Academy of Legal Theory Monograph Series (Oxford: Hart Publishing, 2011).

⁶ On doctrinal legal research, see section 1.3.1.

These different purposes may be combined and are often combined in practice. Very often your legal research will imply determining and critically analysing the law on a particular issue, as well as possibly formulating recommendations (for a better enforcement of the law, or for a change in legislation). For example, if your research topic is “the protection of patients’ rights in Lao PDR,” you will first have to identify the relevant laws and rights applicable to patients and then analyse them. Your analysis may include to look at existing “universal rights’ in international instruments, in order to assess the Lao legal framework against the international law framework. You may end your paper with a section including recommendations for improving the Lao legal framework on the matter. You may also choose another approach by using for example a comparative law methodology. *There are indeed different ways to approach a topic and a plurality of methodologies in legal research.*

1.3 Types of legal research

Diversity of legal research – In every academic field, even where the subject matter appears to be global (e.g., in physics or engineering), “geographical variation” of disciplines still exists as the methods of researchers may reflect “*identifiable features of a particular society, such as its education system or its level of economic development.*”⁷ Legal research is not exactly done in the same way in Laos, Thailand, China, Japan or Singapore, nor in Luxembourg, France, Germany or the United Kingdom. Legal traditions vary geographically and also differ in time.⁸ National variations can be partly explained by the national character of legal research in areas of law that are only relevant within a certain legal culture and have not been ‘internationalized.’

However, more and more, national orders are open to international law and influenced by supranational law or by foreign legal systems. This leads to legal research being more transnational and more comparative than before, and this translates into a growing number of publications in international journals, specialized in specific fields of international law or comparative law.⁹ There is also a growing pressure on academics to publish in English in international journals as part of their career assessment and contribution to their University ranking, etc. *Despite national variations in legal research, there is also a consensus on the core features of legal research, especially as regards “doctrinal legal research” which is the*

⁷ Tony Becher, *Academic Tribes and Territories: Intellectual enquiry and the culture of disciplines* (Buckingham: Open University Press, 1989), 21-22.

⁸ There are diverging traditions of legal scholarship (e.g., Common law versus Civil law) and diverging underlying theories of ‘legal science’ in the course of history: a ‘positive moral science’ (natural law tradition), a discipline aiming at discovering the will of the (historical) legislator (exegetic school), an interdisciplinary discipline (law in context), a social science (legal scholarship as an empirical discipline), etc. To go further, see Patrick Glenn, *Legal Traditions of the World. Sustainable Diversity in Law* 5th ed. (Oxford: Oxford University Press, 2014).

⁹ See for example in the Asian context, the *Asian Journal of Comparative Law*, the *Asian Journal of Law and Society*, the *Asian Journal of International Law*, the *Journal of Anti-Corruption Law*, or the *International Journal of Hydropower and Dams*.

predominant approach in legal research around the world. Doctrinal legal research on the one hand, and interdisciplinary legal research on the other hand are defined below.

1.3.1 Doctrinal legal research

Doctrinal legal research, sometimes referred to as “black letter law” or “legal-dogmatic research” or “traditional legal research” or “classical legal research, can be defined as research that aims *to provide a systematic exposition of the rules governing a particular legal field or institution and analyses the relationship between these rules, explains areas of difficulty with a view to solving unclarities and gaps in the existing law, and possibly predicts future developments.*¹⁰ Doctrinal research asks what the law is on a particular issue, using the research process to identify, analyse and synthesize the content of the law. Doctrinal research is primarily “desk-based,” focusing on reading and analysis of the primary legal sources (such as the legislation and case law), and secondary sources (such as textbooks, journal articles, legal encyclopaedias).¹¹

The core business of doctrinal legal research is *interpretation*, like in other disciplines such as theology or literature, or to a lesser extent history. In doctrinal legal research, research questions are indeed very often linked to establishing the *precise meaning* and *scope* of legal rules, legal principles and/or legal concepts. Doctrinal legal research assigns to the researcher the task of developing an understanding of an authoritative text. This can translate into research topics focusing on a specific law (e.g. “Analysis of the Penal Code reform,” or “The new Lao Civil Code, 2018”) or on specific provisions (e.g. “Study of Article 1 on the Law on Making Legislation, 2012” or “Critical analysis of Article 201 of the new 2021 Civil Code on adoption”), or on legal principles (e.g. “The principle of non-retroactivity in Lao law”), or on legal notions or concepts (e.g. “The notion of ‘public order’ in Lao law,” or “The concept of negligence,” or “The concept of proportionality in Lao law”), etc.

Another feature of legal doctrinal research is that it is *argumentative*, and it aims at the formation of a legal argument based on *legal reasoning*.¹² The researcher places himself inside the legal

¹⁰ Terry Hutchinson, *Researching and Writing in Law*, 3rd ed. (Pyrmont, New South Wales: Lawbook Co., 2010), 7.

¹¹ *Ibid.*

¹² On legal reasoning, see Michael Evan Gold, *A Primer on Legal Reasoning*, Ithaca (New York: ILR Press, 2018). <http://search.ebscohost.com/login.aspx?direct=true&db=nlebk&AN=1728003&site=eds-live>. The legal reasoning is sometimes summarised by the “IRAC” formula: **I**ssue – step 1 is to identify the legal issue to be resolved; **R**ule – Step 2 is to describe what rule/law applies to the issue; **A**nalysis – Step 3 is to apply of the rule to the facts/issue with a discussion on how and why the law applies this way and leads to the conclusion; **C**onclusion – Step 4 is the resolution of the problem with the answer to the Issue at stake. See for example: Wikimand, “IRAC,” *Wikiwand*, accessed October 10, 2021. <https://www.wikiwand.com/en/IRA>; Touro Law Center, “Learning to Work with IRAC,” *Academic Development Program. Touro Law Center*, accessed 10 October 2021. <https://www.tourolaw.edu/ADP/StudySkills/IRAC.aspx>; or California State University Northridge, “Using the I-R-A-C structure in writing exam answers,” *California State University Northridge*, accessed 10 October 2021, https://www.csun.edu/sites/default/files/IRAC%20ANALYSIS_Saunders.pdf.

system and speaks as if he/she were a judge or legislator using the same legal reasoning and normative framework (same law) to “solve a case” and suggest alternatives for the outcomes they reach.

The doctrinal approach develops an *internal* understanding of legal phenomena: it looks at how the law applies in the legal order but not at how the law applies in real life (“law in the books” vs. “law in context”).¹³

However, the role of the doctrine is not a mere description of existing legislation and case law. It has a crucial role in *systemising applicable law*: legal doctrine helps to grasp the law’s complexity – the thousands of rules and judgments – by giving a systematic description of the law, therefore rationalising and stabilising it in order to keep the law intelligible. Doctrinal research, its systematic approach, involves rigorous *analysis and synthesis* as well as the making of *connections* between seemingly disparate pieces of legislation and doctrinal strands, and the challenge of *extracting general principles from the primary materials examined*.¹⁴

A doctrinal research fits all relevant elements together into one whole with the aim of resolving internal inconsistencies among seemingly contradictory sources.¹⁵ An important function of legal doctrine within the legal system is that it helps to “*create coherence and, through this, to keep the law certain and predictable and make sure that similar cases are decided in the same way*.”¹⁶ Legal doctrine has thus an important role to play in strengthening the rule of law.

This “black letter law” approach is still the dominant approach in legal research around the world. As one author put it, “*many even see the ability to do quality doctrinal work as the most distinctive feature of a good legal academic or lawyer. The doctrinal approach has therefore been described as ‘mother’s milk to academic lawyers,’ as the method through which students learn to ‘think like a lawyer’ and even as the ‘nerve centre’ of legal science*.”¹⁷ This is confirmed by a review of several leading textbooks on legal research: most of the content is concerned with identifying and analysing factual material and legal issues, which is the essence of doctrinal legal research.¹⁸

¹³ As opposed to social science approach which focuses on the “law in context” also called “law in action” (external point of view), see the next section 1.3.2.

¹⁴ Council of Australian Law Deans, “CALD Statement on the Nature of Legal Research,” CALD, accessed 12 October 2021, <https://cald.asn.au/wp-content/uploads/2017/11/cald-statement-on-the-nature-of-legal-research-20051.pdf>.

¹⁵ Smits, Jan M., “What is Legal Doctrine? On the Aims and Methods of Legal-Dogmatic Research,” in *Rethinking Legal Scholarship: A Transatlantic Dialogue*, ed. Rob van Gestel, Hans-W. Micklitz & Edward L. Rubin (New York: Cambridge University Press 2017), 207-228, available at SSRN: <https://ssrn.com/abstract=2644088> or <http://dx.doi.org/10.2139/ssrn.2644088>.

¹⁶ *Ibid*, 215.

¹⁷ *Ibid*, 208.

¹⁸ Chui Wing Hong, “Quantitative legal research,” in *Research Methods for Law*, ed. Mike McConville and Chui Wing Hong (Edinburgh: EUP, 2017), 49. The author has consulted several textbooks on legal research when

The doctrinal approach is generally seen as the necessary prerequisite to undertake any other type of interdisciplinary legal research.

1.3.2 Interdisciplinary legal research

Interdisciplinarity means the combination of two or more academic disciplines. The resort to other disciplines can be an *auxiliary* and *complementary* method in legal research, usually when the response to the problem defined in the research question cannot be solely based on the traditional analysis of the body of legal rules and/or does not solely concern the quest for the *precise meaning/interpretation* of the law. In this case, the response cannot be offered with the exclusive use of classical/doctrinal research method, and the researcher may need to adopt an *inter-disciplinary* approach by mixing legal method with non-legal method(s). An interdisciplinary research, as the term suggests, is a type of research that involves two or more research disciplines; law can for example be combined with humanities disciplines such as philosophy, literature or history, or with empirical disciplines part of the social sciences such as psychology, economics, political science or sociology.

The specific method – to be combined with doctrinal legal research method – depends on the discipline chosen and the researcher will need to borrow the methodology used in this non-legal discipline.

The use of social sciences in legal research – often called “socio-legal research” or “empirical legal research” – may for example explain how the legal system works in reality by showing the disparity between the description of legal (“law in the books”) and judicial processes on paper and their everyday reality (“law in action”). Empirical research in law involves “the study (...) of the institutions, rules, procedures, and personnel of the law, with a view to understanding how they operate and what effects they have.”¹⁹

Such an approach might be particularly relevant to look at issues of *implementation* of the law. Many empirical legal studies have for example highlighted the gap between formal rules/procedure according to the law on the one hand and the reality of legal practice on the other (e.g., on the rights of defendants in criminal procedure, on access to justice, on case settlement procedures, on out-of-court negotiations, etc.).²⁰

preparing this chapter. See, for example, Steve Barber and Mark McCormick, *Legal Research* (New York: Delmar Publishers, 1996); David Stott, *Legal Research*, 2nd ed. (London: Cavendish, 1999); Bruce Bott & Ruth Talbot-Stokes, *Nemes and Coss’ Effective Legal Research*, 3rd ed. (London: Sweet & Maxwell, 2012); Robert Watt, *Concise Legal Research*, 6th ed. (Annandale, New South Wales: Federation Press, 2009); Peter Cane and Herbert M. Kritzer (eds), *The Oxford Handbook of Empirical Legal Research* (Oxford: Oxford University Press, 2010).

¹⁹ John Baldwin and Gwynn Davis, “Empirical Research in Law,” in *The Oxford Handbook of Legal Studies*, ed. Mark Tushnet and Peter Cane (Oxford University Press, 2005), 880-899, sp. 881.

²⁰ *Ibid.* 880-899, sp. 887. The author refers for example (p. 886) to studies that have been conducted in the US which demonstrated the way in which decisions by police officers on arrest and detention was often at odds with legal

Securing access to data is a difficulty characteristic of empirical legal research as access to the organisation's work will often require to obtain authorization or permissions (e.g., from the police, from the judiciary, from the prison administration, etc.). Assessing realistically the possibility to be able to collect relevant data is an essential step in the research design as there might be some restrictions. However, empirical legal research by studying the functioning of major legal institutions participates in making these institutions more open and publicly accountable. Opening themselves up to reputable academic research might also help these institutions in building up their accountability, which is one fundamental aspect of rule of law.

Furthermore, in a society such as Laos where much of the norms experienced by large segments of the population, especially at the local level, are non-written sources, empirical legal research may involve fieldwork with interviews of community members and traditional authorities.

Much empirical legal research is descriptive and explanatory: on the one hand, it aims at examining the operation of legal processes and to demonstrate how these are perceived by all the parties concerned, on the other hand, it is also about providing explanations for social phenomena. The main distinction within socio-legal research is between 'qualitative' and 'quantitative' approaches.

Qualitative empirical legal – *Qualitative* empirical legal research relies on more focused and in-depth investigations consisting in direct contact with the actors studied. It is achieved through three main methods and techniques of collecting data: *in-depth interviews*, *direct observations* and *analysis of data retrieved from relevant documents*.²¹ It gives results that are narrower than with a quantitative approach and more accurate since qualitative research tends to focus on a smaller number of 'observations' (people or events or documents), which are considered to be 'data rich' and thus worthy of study, and to examine them in-depth.²² Case studies – mixing principally, on the one hand, observation and interviews, with some documentary research, on the other hand content analysis to analyse the interview transcripts – are extensively used by qualitative empirical researchers examining legal phenomena, perceptions of law and the legal profession at the micro-level. As an example, we can mention this qualitative empirical legal study which examined the work of lawyers in divorce cases in England in 2000.²³ The background of the study was a set of assumption widely held by the media that lawyers in divorce cases were adopting an adversarial posture exacerbating tensions between the parties. The study examined the work of a sample of 40 individual lawyers, using *observations* for 14 days of their daily work, *in-depth interviews* to talk about pre-selected cases, and *documentary*

rules; demonstrated that decision-making in the courtroom reflects the attitudes and prejudices of the judge who hears the case as well as the clinical application of the law; and demonstrated that the way in which lawyers deal with their cases was frequently departing from legally prescribed procedures.

²¹ Lisa Webley, "Qualitative Approaches to Empirical Legal Research," in *The Oxford Handbook of Empirical Legal Research*, ed. Peter Cane & Herbert Kritzer (Oxford University Press, 2010), 928-929.

²² *Ibid*, 934.

²³ *Ibid*, 945.

research based in particular on file notes on their case files. The findings did not support the media's perception and to the contrary showed that lawyers were taking measures to try reducing tension between their clients and encourage negotiation. As a result of the qualitative nature of the study and the size of the sample, the researchers could not claim that the findings were representative of all divorce solicitors in England, but the research methods used provided a depth of understanding that could not have been gained with a quantitative approach.

Quantitative empirical legal research – *Quantitative* empirical legal research relies on the use of *statistics* to quantify a certain phenomenon. The three main data collection techniques are *surveys*, *experiments* and *secondary data analysis*.²⁴ In the field of law, quantitative approaches are for example used for victimisation studies²⁵ to provide more reliable measures of crime than data based on official police records. It can also be in the form of social/community surveys which, if well designed (e.g., with efficient sampling techniques and intelligible, discriminating questions), can capture the opinion of a given population and their unmet legal needs.²⁶ It should be noted that *quantitative research has limitations, in particular surveys*. Surveys are indeed only useful when they focus upon issues concerning which the informants have experience and can respond authoritatively (no point asking people about matters of which they have no direct experience and therefore nothing to offer beyond prejudice and received opinion).²⁷ *As a result, socio-legal research employs more and more a combination of qualitative and quantitative techniques*.²⁸

The selection of the legal research method(s) depends very much on the research topic and research question (problematic) you want to answer as a researcher in the first place. This is to be discussed with your research supervisor and also depends on the ability of the researcher. To do inter-disciplinary legal research, the researcher must be knowledgeable in more than one discipline in order to be competent in carrying out his/her research (e.g., even if use of secondary data not collected directly by the researcher, he/she must still be able to judge and use the available materials, understand the methodology used, etc.). The researcher must also be able to translate the findings stemming from observations, interviews and data regarding the functioning and the effects of law back into legal terms.²⁹ It should be borne in mind that the more

²⁴ Ibid., 48-71, sp. 50ff. "Secondary data" refers to the statistical material and information obtained for other purpose and by other researchers.

²⁵ Surveys asking a sample of people which crimes have been committed against them over a fixed period of time and whether or not they have been reported to the police.

²⁶ Ibid., 880-899, sp. 892.

²⁷ Ibid.

²⁸ As an example, John Baldwin and Gwynn Davis refer, to a recent a study from 2002 of bail decisions and plea bargaining Gail Kellough and Scot Wortley, "Remand for plea: Bail Decisions and Plea Bargaining as Commensurate Decisions," in *The British Journal of Criminology* 42, no. 1 (Oxford University Press, 2002), which employed a variety of methods, including tracking some 1,800 criminal cases through the courts and, in methodological contrast, face-to-face interviews with a limited number of offenders.

²⁹ Aikaterini Argyrou, "Making the Case for Case Studies in Empirical Legal Research," *Utrecht Law Review* 13, no. 3 (2017): 95-113, sp. 97.

interdisciplinary the legal research is, the more complex and time-consuming it will be and that strong interdisciplinary or external perspectives might well require group work with researchers from different disciplines.

Chapter 2: Sources

By Dr. Perrine SIMON and Pangthong XAYYAVONG

Finding reliable sources (data) to read and feed your analysis is at the heart of legal research. Your research must include a thorough *literature review* of the existing material on your topic. For this, you should use primarily online academic databases, in particular those available from the E-library,³⁰ but also consult the collection of printed books available at the University library. You should avoid using Wikipedia and Google since not all entries are reliable. In the same way, when you find a reference, you should always try to consult the original source and cite the original source to make sure it is accurate and reliable.

Not all sources have the same *authority*. Publications from leading scholars by established publishers are for example generally considered to be of the highest academic quality. As a result, they are expected to be referenced in your research. To the contrary, publications by unknown academics online with no peer review, are generally considered to be less authoritative and of lower quality. As a result, your research cannot only rely on this kind of publications.

The researcher also has to take into account the *relevance* of the sources. The sources must have some relevance for the research topic. Depending on the topic, old material (e.g., published over 10 years ago) may also be of limited relevance if a lot has been written on the same thing since then.

The presentation of sources may vary depending on the field. However, generally in legal research, we distinguish between two main categories of sources: primary sources and secondary sources.³¹ The *primary sources are mostly formal sources of law*, meaning material/documents establishing the law on a particular issue, such as a case decision or legislative act. *Secondary sources are sources of information describing or interpreting the law*, such as law articles and other scholarly legal writings.

Both primary and secondary sources should be used in your research. The sources of your research have to be reflected in footnotes and/or bibliography and must be properly referenced.³²

³⁰ FLP-NUoL, “E-library,” *Faculty of Law and Political Science-NUoL*, accessed 12 October 2021. <https://flp.nuol.edu.la/e-library>;

³¹ See this distinction for example in Nolan Donal and Sandra Merdith, *OSCOLA : Oxford University Standard for the Citation of Legal Authorities*, 4th ed. (Hart Publishing, 2012). https://www.law.ox.ac.uk/sites/files/oxlaw/oscola_4th_edn_hart_2012.pdf.

³² See Chapters 3 and 4.

2.1 Primary sources

Primary sources in legal research are the *raw material* of lawyers that will need to be analysed and interpreted by the researcher. Primary sources consist of legislation in the broad sense (national law enacted by a State or International law enacted by an International Organisation and/States). This includes the constitutions, the statutes, the regulations, the case law but also international treaties and customary law.

The *constitutions*, as the fundamental norm regulating the organisation and the functioning of the State and setting the basic rights of individuals, are setting cross-cutting rules relevant for most legal research topics.³³

The *statutes* (the laws), are the texts which are voted by the legislator, in contrasts with the texts adopted by the executive (regulations). The “resolutions” of the legislator are not laws *per se* but are expressing an opinion which should guide the adoption of legislation and can also be relevant for legal research. Note that laws that are published in the form of a book are still “law” and fall in the category of primary resources.³⁴

The *regulations* are the administrative acts enacted by the executive branch, either in order to implement laws (statutes) by setting certain details necessary for their actual implementation, or in order to rule on certain issues falling under the powers of the executive branch (government level but also local level). There is a variety of regulations which can be taken by the executive power such as “ordinances,” “decrees,” “orders,” “decisions,” etc. Regulations must respect all the higher legislation meaning the laws, the international treaties ratified and the Constitution.

The *international treaties* are the legal instruments negotiated between different States to commit themselves to each other in a chosen area (e.g., peace, trade, human rights). To be applicable international treaties have to be signed and ratified (by the National Assembly in Lao PDR). When international conventions provide clear rules and can be self-executing, they can be directly applicable. Some other conventions may require a specific law to be implemented. Almost every research topic has nowadays to deal with international law to some extent.

The *case law*, also called the “jurisprudence,” refers to the decisions made by the courts. It is highly important in every legal system as a primary source in legal research. In general, “Civil

³³ For example, the Constitution of Lao PDR amended in 2015 sets the rules on “The Political Regime” (Chapter 1), the “Fundamental Rights and Obligations of Citizens” (Chapter 4), the powers of the National Assembly (Chapter 5), of the President of the State (Chapter 6), of the Government (Chapter 7), of People’s Courts and Public Prosecutors (Chapter 10), etc. See the Constitution of the Lao PDR, 1991 (latest revision 2015), available at: https://data.laos.opendevlopmentmekong.net/laws_record/constitution-of-lao-pdr-2015.

³⁴ You will learn how to cite statutes properly in Chapter 4. A commentary of the law is different since it constitutes a doctrinal work and would fall under the category of secondary sources.

law” systems, although the case law is not a formal source of law,³⁵ judges have the power and the duty to interpret the law as well as the obligation to adjudicate cases submitted to them. Since laws are not always clear, the interpretation of the laws given by judges is very relevant for legal research to analyse and synthesize the content of the law. The organisation of a hierarchical court system, with the Supreme Court at the top considering complex questions of law, also favours the high authority of judgments.³⁶

Customary law is a source of law in most legal systems, to a varying extent, and in International law falling under the category of primary sources. A customary law is an unwritten legal rule, deriving from a general and repetitive practice, to which the members of a social group comply because they consider it to be compulsory and to be the law. A custom is “customary law” when these two elements exist: a *repetitive practice* and the fact that people *consider it to be law* (“*opinio juris*”). One common question for the jurist dealing with customary law in his/her research is how customs are fitting with written laws. Different situations are possible: (1) the law can refer to customs to regulate a particular situation (“*segundum legem*”); (2) customs can also play a role in the absence of laws to fill the loopholes (“*praeter legem*”), with time they can sometimes be codified; (3) they can also be contradicting the laws “*contra legem*”) and in the case written laws should take precedence.

2.2 Secondary sources

Secondary sources in legal research are the *material derived* from the primary sources. They are the sources that describe or interpret the primary sources. In other word, the secondary sources are *legal writings about law*, which do not stem from the legislative body or courts but from authors expressing a set of views/opinions about legal issues. Secondary sources can be found in academic publications such as textbooks, commentaries of decisions or commentaries of legislation, law journal articles, etc.

Secondary sources play an important scientific function by systemizing and clarifying the law, and are key for the researcher. Secondary sources such as textbooks or law journals articles published by respected editors are indeed written in a very systematic style and structured manner, and are therefore considered a great place to start your legal research. When they exist on your research topic, they can provide you information explaining and analysing (some of) the

³⁵ Because based on the principle of separation of powers, the judge has a different function than the legislator and cannot impinge on the legislator’s domain. Judgments are not legislation *per se* and are only binding for the parties (and for the State who must enforce them). In *civil law* systems, the judge is applying the laws – he/she is the “mouth of the law” – and not creating the law.

³⁶ In Lao PDR, the highest court is the People’s Supreme Court and the lower courts are the People’s Appellate Courts, People’s Provincial Courts, Capital City and Juvenile Courts and People’s Regional Courts and then the Military Courts.

primary sources collected, for example “what the law is” and then giving examples on how the law has been applied in various circumstances by referring to case studies or case law, etc.

Secondary sources can also help you to identify other relevant sources for your research and to complete your *literature review* on the topic because they are citing primary sources and other secondary sources properly referenced.

In Law, secondary sources include in particular:

- Law Textbooks, encyclopaedias and dictionaries;
- Law articles (Book chapters, Journal articles, Working papers, Case commentaries, etc.);
- Law Reports by NGOs, or governmental or intergovernmental committees (e.g., reports by Human Rights Watch, reports UN Committees, or parliamentary report, etc.);
- Conference papers;
- Theses;
- Websites articles and blog posts;
- Newspaper (e.g., The Vientiane Times, The Guardian, The New York Times, etc.);
- Interviews (e.g., if you have interviewed judges, professors or other relevant stakeholder for your research).

Law textbooks, legal encyclopaedias and law dictionaries can be particularly useful when starting your research in order to learn the basics of a particular area of law, to understand key terms in this area and also to identify the essential cases. They will also provide you with specific references to deepen your knowledge on more detailed aspects.

With online sources, you should be particularly careful in order to assess if the material is objective and reliable. You should always ask yourself “who are the author and publisher?,” “What is the author's expertise?,” “Is the web page on which you found the information part of a larger educational, or scholarly website?,” “Is the author funded by a political organization or party?,” etc. Even researchers make mistakes, so you should always check that the paper you rely cites enough sources and also double-check the sources and footnotes in case of doubt. Again, the best is to find your secondary sources using online *academic* databases such as the E-library, or if the source you are looking for is not available search on open access academic databases such as SSRN,³⁷ ResearchGate,³⁸ Google Scholar,³⁹ DOAJ (Directory of Open Access Journals),⁴⁰ Academia,⁴¹ etc.

³⁷ Social Science Research Network, “Advanced Search,” *SSRN*, accessed 10 October 2021, <https://papers.ssrn.com/>.

³⁸ ResearchGate, “Home page page,” *ResearchGate*, accessed 10 October 2021, <https://www.researchgate.net/>.

³⁹ Google, “Home page,” *Google Scholar*, accessed 10 October 2021, <https://scholar.google.com/>.

⁴⁰ Directory of Open Access Journals, “Home page ,” *DOAJ*, accessed 10 October 2021, <https://doaj.org/>.

⁴¹ Academia.edu, “Home page” *Academia.edu*, accessed 10 October 2021, <https://www.academia.edu/>.

Chapter 3: Academic Ethics and Plagiarism

By Dr. Perrine SIMON and Dr. Boulaphiane SISOUK

3.1 What is academic ethics?

Academic ethics is a term used for the *professional honesty that researchers and writers of academic papers are expected to demonstrate in their work.*

Having an ethical conduct at the University includes to respect key principles: *Honesty*, you must be honest about your work and the sources you use; *Fairness*, you should not seek an unfair advantage (e.g., in group work); *Respect*, you must give credit to other researchers and respect your fellow students and teachers; *Responsibility*, you should take responsibility for your own learning.⁴² Academic ethics goes together with *academic integrity* which involves supporting your ideas with high-quality, properly acknowledging evidence, not taking credit for other people's work, communicating your own thinking with confidence and not seeking an unfair advantage in an exam by attempting to cheat.⁴³

As a writer you have to respect the work of others. This means that you should always credit the work of others by referencing the sources that you are quoting, paraphrasing or using in your paper. Academic ethics and integrity forbid a wide range of scientific misconducts ranging from fabrication, falsification, or plagiarism, in proposing, performing, or reporting research.⁴⁴ Plagiarism is a serious breach of academic ethics defined below.

3.2 What is plagiarism?

Plagiarism is the practice of “*presenting someone else's work or ideas as your own, with or without the consent of the original author, by incorporating it into your work without full*

⁴² Monash University, “Research and Learning Online,” *Monash Australia*, accessed 12 October 2021. <https://www.monash.edu/rlo/research-writing-assignments/referencing-and-academic-integrity/academic-integrity/what-is-academic-integrity>. Most universities have rules on ethics and academic integrity, see for example University of Luxembourg, “Policy on Ethics in Research of Luxembourg University,” *University of Luxembourg*, accessed 12 October 2021. https://www.uni.lu/content/download/55604/657605/file/University%20of%20Luxembourg%20Policy%20on%20Ethics%20in%20Research_102012.pdf.

⁴³ Ibid.

⁴⁴ Lund University, “What is Academic Integrity?,” *Lund University*, accessed 10 October 2021. <https://awelu.srv.lu.se/academic-integrity/what-is-academic-integrity/>. The area of academic ethics is vast: it include guidelines for writers, but also guidelines regarding ethical aspects of field work and clinical work, which cannot be covered in our Guidelines on Legal Research.

*acknowledgment, whether intentionally or not.*⁴⁵ It is therefore a type of “intellectual theft.” It is a misappropriation of the ideas of others and can apply to academic work that is published (protected by copyright) or unpublished.

Plagiarism and copyright infringement can go together – e.g., by plagiarising a published work protected by intellectual property – but are not the same thing. Plagiarism is an “academic offence” whereas copyright infringement is a “legal offence.” A copyright infringement is an infringement of the law.⁴⁶ Plagiarism is a matter of ethics, for which you can be subject to disciplinary sanctions (by the University), whereas copyright is a matter of law, for which you could be prosecuted. Beyond plagiarism rules, you also need to make sure you are not accidentally infringing someone’s copyright when you re-use images, text, or other materials.⁴⁷

Plagiarism can be intentional, but also reckless or unintentional.

All individuals involved in research should ensure that their research complies with the highest standards of academic ethics. Research should always be designed, reviewed and undertaken in a way that ensures academic independence, integrity and quality. As members of the academic community, students and lecturers are required to uphold academic honesty when doing research. Researchers should be honest in respect of their own actions in research, *and the direct or indirect contributions of colleagues or collaborators should always be acknowledged*. Plagiarism does not only result in poor academic output/production, but also means that you have failed to accomplish the learning process.

Plagiarism “*is unethical and can have serious consequences for your future career; it also undermines the standards of your institution and of the degrees it issues.*”⁴⁸ As a result, plagiarism is a serious breach of research ethics regarded as a grave disciplinary offence by the FLP. It is not tolerated at the University.

3.3 Types of plagiarism

Various forms of plagiarism exist, with different label depending on the guidelines you will consult but all covering the same practices.⁴⁹ The boundary between plagiarism and research is

⁴⁵ See University of Oxford, “Plagiarism,” *University of Oxford*, accessed 10 October 2021, <https://www.ox.ac.uk/students/academic/guidance/skills/plagiarism>.

⁴⁶ Law on Intellectual Property, (2017).

⁴⁷ For examples on this, see: Clement, Siu Chen, Su-Lin, Yan Chuin, “Copyright vs Plagiarism: Similarities & Differences,” 20 November 2020, educational video, 2:43, https://youtu.be/xJ_VuZDibrk.

⁴⁸ Ibid.

⁴⁹ For different presentations, see Plagiarism.org, “What is Plagiarism,” *Plagiarism.org*, published 18 May 2017, accessed October 10, 2021. <https://www.plagiarism.org/article/what-is-plagiarism>; University of New South Wales Sydney, “What is Plagiarism,” UNSW Sydney, accessed 10 October 2021. <https://student.unsw.edu.au/what-plagiarism>; National University of Singapore, “Plagiarism Basics,” *NUS*, accessed 10 October 2021. https://libguides.nus.edu.sg/new2nus/acadintegrity_plagiarism; Indiana University Bloomington, “Plagiarism: What

sometimes tricky. For this reason, it is critical to understand the main forms of plagiarism in order to be able to identify it and to avoid it.

Copying – Copying is the most obvious form of plagiarism. One is copying when using the same or very similar words than those in the original text, or same or similar idea, *without acknowledging the source or using quotation marks*.⁵⁰ This comprises *copying* materials, ideas or concepts from a book, article, report or other written document, presentation, website/internet, or from other electronic resources, or from another person's assignment, *without appropriate acknowledgement*.⁵¹ Translating original work in foreign language to another language by using the same or very similar words than those in the original text, without acknowledging the source or using quotation marks is also considered as copying.

Example: *You are translating and integrating a chunk of text written by another person in English into Lao without quotation marks and footnote in your paper. It is plagiarism.*

Inappropriate paraphrasing – Inappropriate paraphrasing happens when you change a few words and phrases while mostly retaining the original structure and/or progression of ideas of the original information without acknowledgement.⁵² Inappropriate paraphrasing also applies to presentations where someone paraphrases someone else's ideas or words without acknowledgement, or when combining together quotes and paraphrases into a new whole, without appropriate referencing.

Example: *You are reformulating the idea of an author without crediting him in a footnote.*

Collusion – Academic collusion consists in presenting your work as independent work (pretending it is your own work) when it has actually been produced entirely or partly in collaboration with others. This includes situations such as: the failure to attribute assistance received (e.g. not mentioning a co-author); the failure to follow precisely regulations on group work projects (e.g. adding the name of a person as a co-author despite the fact that he/she did not contribute to research or very little"/also called "guest-authoring"); unauthorised collaboration between students/researchers (e.g. students providing their work to another student before the due date of their assignment for the purpose of them copying it, offering to complete another person's work or seeking or receiving payment/or favour for completing academic work).

It is and How to Recognize and Avoid It," *Indiana University Bloomington*, accessed 10 October 2021. <https://wts.indiana.edu/writing-guides/plagiarism.html>; University of Oxford, "Plagiarism," *University of Oxford*, accessed October 12, 2021. <https://www.ox.ac.uk/students/academic/guidance/skills/plagiarism>.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Ibid.

Collusion also includes the practice of “contract cheating,” also called “ghost-writing.” Ghost-writing is when a researcher engages another person to complete work for him and then submits the work as his/her own, when it was actually substantially the work of another person.⁵³

None of these collusion practices should be confused with *authorised academic collaboration* where there has been a discussion on *participation and authorship*. Collaborative work is possible but must respect rules on authorship: all listed authors are expected to participate in multiple tasks, in addition to editing and approving the final document.⁵⁴ You must ensure that you are very clear about the extent of collaboration authorised, and which parts of the work should be your own.

Inappropriate citation – Inappropriate citation happens when you are citing sources that you have not read and for which you did not acknowledge the “secondary” source from which knowledge of them has been obtained. This may include fabricating citations, or inaccurately citing sources (beyond typographical errors).

Example: *You are citing an article/or book referred to in another article (“secondary” source) that you read without checking the original source.*

To cite correctly, you must list your sources *as well as indicate, using a footnote or an in-text reference, where a quoted passage comes from by referring to the precise page(s) of the paper.* Furthermore, you should not include anything in your references or bibliography that you have not actually consulted. If you cannot get access to the original source, you must clearly indicate in your citation that your knowledge of the work has been derived from a secondary text. You can for example indicate in your footnote: Jason Ray Hutchison, “The Law of Bo Pen Nyan (No Worries): Understanding the Rule of Law and the Role of Law in Modern-Day Laos,” (Unpublished, 2006), discussed in Perrine Simon, “The role of law in the Rule of law, the contribution of academics in Lao PDR,” *Critical Quarterly for Legislation and Law* 102, no. 3 (2019): 206, 213.

Self-plagiarism – Self-plagiarism, also called auto-plagiarism, is the practice of an author/student using previous writings (partially or in full) on the same topic in another of their publications/assignment without specifically citing it formally in quotes.

Example: *You publish the same content several times with different titles or in different journals.*

⁵³ This includes circumstances where a student or researcher submits work they may have edited which was substantially the work of another person, or where a student or researcher prepares a draft that is substantially modified by another (beyond minor editing).

⁵⁴ For guidance on collaborative research, see: Marieke Frassl, David Hamilton, Blaize Denfeld, Elvira de Eyto, Stephanie Hampton, Phillip Keller, “Ten simple rules for collaboratively writing a multi-authored paper,” *PLoS computational biology* 14, (2018): 1-8. Available at: <https://journals.plos.org/ploscompbiol/article?id=10.1371/journal.pcbi.1006508>.

3.4 Sanctions for plagiarism

Plagiarism is a research misconduct that is regarded as a serious disciplinary offence. Allegations of plagiarism will be investigated and penalties may range from deduction of marks (for students), withdrawal of diplomas, to suspension or even expulsion from the University, depending on the seriousness of the occurrence. For academic staff, in the case of a research funded, the aforementioned penalties can also be accompanied by a termination of the research contract with an obligation to reimburse the funds, possibly with the barring from obtaining any research grants for the future (permanently or temporarily). In the event of plagiarism of published work protected by copyright, the plagiarism is also constitutive of copyright infringement and can result in civil or even in some cases criminal proceedings.

Not all cases of plagiarism arise intentionally, this is to say with a deliberate intention to cheat. However, *even when plagiarism is unintentional, it can lead to a sanction*. For example, if you omit to write down citation details when taking notes, or if you do not respect referencing rules because you ignore them, it is not an excuse and it is still plagiarism for which you can be liable. Therefore, even in cases where the plagiarism is considered to have been neither intentional nor reckless, there can still be an academic penalty given for poor practice (e.g., a warning and obligation to re-write the assignment, or a deduction of the mark).

For academic staff members (e.g., PhD or lecturer), plagiarism can hardly be considered unintentional since academics cannot be deemed to ignore rules on referencing and plagiarism due to their position. Plagiarism offences committed by academic staff are therefore regarded as more serious than when committed by students. Indeed, they are very damaging not only for the reputation of the author, but also for the academic institution as a whole.

The forms of plagiarism listed in this chapter are all potentially disciplinary offences in the context of research produced at the University. To avoid plagiarism and produce work of the highest quality, the best way is to make sure you understand the rules on how to use sources and on citations. If you respect these rules, you should find it relatively easy to avoid plagiarism and will improve the quality of your writing.

Chapter 4: Styles of Citations

By Dr. Latdavanh DONKEODAVONG and Dr. Sypha CHANTAVONG

4.1 Golden rules for academic citations (general principles)

A good (legal) research is built on a thorough literature review and properly cites its sources. As mentioned by the Oxford University Standard for Citation of Legal Authorities (OSCOLA), “(t)here are two golden rules for the citation of legal authorities. One is consistency. The other is consideration for the reader. Legal writing is more persuasive when the author refers to legal materials in a clear, consistent and familiar way. When it is easy to identify and to find the author’s sources, it becomes easier for the reader to follow the argument.”⁵⁵

The purpose of a citation is to identify the cited resource by its details. This is also an essential aspect of academic ethics since appropriately citing and acknowledging your sources is the best way to avoid plagiarism. A citation style contains detailed rules on how to format individual citations (footnotes) and how to cite in the bibliography.⁵⁶ The term “style” has various meanings in academic writing. Here, it refers to the formatting requirements for typesetting or printing. The citation style sets the rules for arranging the citation of a resource in a readable and compact form as a reference.⁵⁷ Proper referencing is extremely important for academic integrity and ethics. It allows the author to acknowledge where the idea or knowledge referred to comes from.⁵⁸ It is therefore extremely important to cite correctly your sources to avoid plagiarism and its sanctions. Citation is also the way that tell a reader know where to find the source referred to.⁵⁹ The reference indeed must give to the reader precise information to find that source, including the author’s information, the title of the work, name, location of the publisher, date, and page numbers of the material you are borrowing.

Law faculties around the world respect these general principles just explained above. However, they have not adopted uniform standards and use different styles of citations in the field of law

⁵⁵ Donal Nolan and Sandra Meredith, *OSCOLA The Oxford University Standard for Citation of Legal Authorities*, 4th ed. (Oxford: Hart Publishing, 2012), 1.

⁵⁶ University of Chicago, “Chicago-Style Citation Quick Guide,” University of Chicago Press, accessed 12 October 2021 https://www.chicagomanualofstyle.org/tools_citationguide.html.

⁵⁷ Nagoya University, *Writing Guide, Graduate School of Law* (Nagoya: Nagoya University, 2019), 13. Available at : https://www.law.nagoya-u.ac.jp/_userdata/writing-guide.pdf.

⁵⁸ Cambridge Dictionary, “Reference,” *Cambridge University Press*, accessed 12 October 2021, <https://dictionary.cambridge.org/dictionary/english/reference>.

⁵⁹ Oxford Learner’s Dictionaries, “Reference,” *Oxford University Press*, accessed 4 October 2021, https://www.oxfordlearnersdictionaries.com/definition/english/reference_1?q=reference.

such as “Chicago Manual of Style” (in most Asian Universities), the OSCOLA, the “Bluebook,” or the “Redbook,” etc.

4.2 Presentation of Chicago style for law in the Lao context

The FLP-NUoL has selected the Chicago style. The Chicago style is a citation style that uses footnotes at the bottom of a page. The basic style is based on the guidelines provided in the Chicago Manual of Style, a comprehensive desk reference for editors published by the University of Chicago.

In this basic style, the FLP-NUoL follows the rules of the “Chicago Full Note” form of referencing described in the Chicago Manual. It comes in two varieties: notes and bibliography as a wide range of material. You can also find some further resources online.⁶⁰ However, you should note that the Chicago style of citation sets some standards for referencing common academic sources in general for all disciplines without providing for specific standards for legal resources. As a result, this chapter on styles of citations of FLP adapts the Chicago rules by providing detailed examples of how to cite specific resources used in Lao legal research. For each example, you will see how it should appear *in the footnotes* and *in the bibliography*.

4.2.1 Primary sources

Resolution of the Party Central Committee and Other Documents of the Party

Footnote

Basic format: Institution’s name, “name of resolution or document of the Party,”⁶¹ number (Name of institution, date, month, year), article or page.

Ex: Party Central Committee, “Resolution of the Party Central Committee on Promulgation of the Tenth Congress of the Ruling Lao People’s Revolutionary Party,”⁶² no. 04/PCC (Party Central Committee, 22 March 2016), art. 1.

Bibliography

Basic format: Institution’s name. “Name of resolution or document of the Party.” Number. Name of institution, date, month, year.

Ex: Party Central Committee. “Resolution of the Party Central Committee on

⁶⁰ See for example: University of Portland Clark, “Chicago Style (17th Edition) Citation Guide: Introduction,” *University of Portland Clark*, accessed 4 October 2021. <https://libguides.up.edu/chicago/intro>; also West Virginia University Libraries, “Chicago Citation Style Guide,” *West Virginia University*, accessed 4 October 2021. <https://libguides.wvu.edu/c.php?g=418946&p=2855220>.

⁶¹ The “coma” is placed inside the quotation marks for the footnotes. This applies to all references with Chicago style.

⁶² The “coma” is replaced by a “dot” in the bibliography is placed, still inside the quotation marks. This applies to all references with Chicago style.

Promulgation of the Tenth Congress of the Ruling Lao People’s Revolutionary Party.” No. 04/PCC. Party Central Committee, 22 March 2016.

Constitution and Law

Footnote

Basic format: Name of the Constitution or law, article (year).

Ex: Civil Code, art. 9 (2019).

Bibliography

Basic format: Name of the Constitution or law, year.

Ex: Civil Code, 2019.

If the legal text you are using has been amended, the date you refer to should still be the date of enactment of the text, and we recommend to add the date of the revision. For example, the Lao Constitution has been amended several times and lastly in 2015 but enacted in 1991, it should therefore be cited like this: Constitution of the Lao PDR, 1991 (latest revision 2015).

If you conduct a comparative study, you should provide a name of country that promulgates a statute at the bibliography.

Ex: Penal Code, 2017 [Laos].

Resolution, Presidential Decree, Prime Minister’s Decree, Order, Agreement, Guidance and Notice

Footnote

Basic format: Institution’s name, “Statute’s name,” number (Name of institution, day, month, year), article.

Ex: Prime Minister, “Decree on Environmental Impact Assessment,” no. 21/Govt. (Government, 31 January 2019), art. 2.

Bibliography

Basic format: Institution’s name. “Statute’s name.” Number. Name of institution, day, month, year.

Ex: Prime Minister. “Decree on Environmental Impact Assessment.” No. 21/Govt. Government, 31 January 2019.

Court Decision and Case

Footnote

Basic format: Court’s name, case name, case number, day, month, year of judgment. URL if available

Ex: People’s Supreme Court of the Lao PDR, Judgment of Civil Case on Loan

Agreement, no. 10/CC, 12 January 2010. URL:
<http://www.peoplescourt.gov.la/la/2016-04-05-08-25-28/2016-04-05-08-46-31/37-2016-04-05-09-15-18.html>.

Bibliography

Basic format: Court's name. Case name. Case number. Date, month, year of judgment. URL if available

Ex: People's Supreme Court of the Lao PDR. Judgment of Civil Case on Loan Agreement. No. 10/CC. 12 January 2010. URL:
<http://www.peoplescourt.gov.la/la/2016-04-05-08-25-28/2016-04-05-08-46-31/37-2016-04-05-09-15-18.html>.

4.2.2 Secondary sources

Book

Book with one author

Footnote

Basic format: Author's first name and last name,⁶³ *Title in italics* (Place of publication: Publisher, year), page number.

Ex: Davone Vangvichit, *Civil Law*, 2nd ed. (Vientiane Capital: Faculty of Law and Political Science, National University of Laos, 2007), 4.

Bibliography

Basic format: Author's last name and first name.⁶⁴ *Title in italics*. Place of Publication: Publisher, Year.

Ex: Vangvichit, Davone. *Civil Law*. 2nd ed. Vientiane Capital: Faculty of Law and Political Science, National University of Laos, 2007.

Book with two and three authors

Footnote

Basic format: First author's first name and last name, second author's first name and last name, *Title in italics* (Place of publication: Publisher, year), page number.

Ex: Koh Kheng-Lian, Nicholas A. Robinson, and Lye Lin-Heng, *ASEAN Environmental Legal Integration: Sustainable Goals* (Cambridge: Cambridge University Press, 2016), 8.

Bibliography

Basic format: First author's last name, first name, second author's first

⁶³ For the footnotes, you must always put the first name and then the last name, followed by a "coma."

⁶⁴ For the bibliography, it is the opposite, you must indicate first the last name, then place a "coma" and indicate the first name of the author. Make sure you do not confuse the first and last name.

name and last name . *Title in italics*. Place of publication:
Publisher, year.

Ex: Kheng-Lian, Koh, Nicholas A. Robinson, and Lye Lin-Heng. *ASEAN Environmental Legal Integration: Sustainable Goals*. Cambridge: Cambridge University Press, 2016.

Book with four and more authors

Footnote

Basic format: First author's first name and last name et al., *Title in italics*. (Place of publication: Publisher, year), page number.

Ex: Fu Hualing et al., *Socialist Law in Socialist East Asia* (Cambridge: Cambridge University Press, 2018), 4.

Bibliography

Basic format: First author's last name and first name, second author's last name and first name, third author's last name and first name, fourth author's last name and first name.⁶⁵ *Title in italics*. Place of publication: Publisher, year.

Ex: Hualing, Fu, John Gillespie, Pip Nicholson, and William Partlett. *Socialist Law in Socialist East Asia*. Cambridge: Cambridge University Press, 2018.

Book Section/Chapter

Footnote

Basic format: Author's first name and last name, "Title," in *Title of book in italics*, ed. first name and last name of editor (Place of publication: Publisher, year), page number.

Ex: Antony Anghie, "Asia in the History and Theory of International Law," in *International Law in Asia and the Pacific*, ed. Simon Chesterman, Hisashi Owada and Ben Saul (Oxford: Oxford University Press, 2019), 190.

Bibliography

Basic format: Author's last name and first name. "Title." In *Title of book in italics*, edited by first name and last name of editor. Place of publication: Publisher, year.

Ex: Anghie, Antony. "Asia in the History and Theory of International Law." In *International Law in Asia and the Pacific*, edited by Simon Chesterman, Hisashi Owada and Ben Saul. Oxford: Oxford University Press, 2019.

⁶⁵ For the bibliography, it is required to provide all names of the authors.

Translated book

Footnote

Basic format: Author's first name and last name, *Title in italics*, trans. first name and last name of translator (Place of publication: Publisher, year), page number.

Ex: Michael Stolleis, *Public Law in Germany: A Historical Introduction from the 16th to the 21st Century*, trans. Thomas Dunlap (Oxford: Oxford University Press, 2017), 20.

Bibliography

Basic format: Author's last name and first name. *Title in italics*. Translated by first name and last name of translator. Place of publication: Publisher, year.

Ex: Stolleis, Michael. *Public Law in Germany: A Historical Introduction from the 16th to the 21st Century*. Translated by Thomas Dunlap. Oxford: Oxford University Press, 2017.

Journal Article

Footnote

Basic format: Author's first name and last name, "Article Title," *Journal Title in italics* Volume, Issue no. (Year): page number.

Ex: Ngoc Son Bui, "Constitutional Amendment in Laos," *International Journal of Constitutional Law* 17, no. 3 (2019): 766.

Bibliography

Basic format: Author's last name and first name. "Article Title." *Journal Title in italics* Volume, Issue no. (Year): all page numbers.

Ex: Son Bui, Ngoc. "Constitutional Amendment in Laos." *International Journal of Constitutional Law* 17, no. 3 (2019): 756-786.

Report

Footnote

Basic format: Author's first name and last name (or institution if no author known), *title of the report in italics* (Place of publication: publisher, year), page number.

Ex: Bank of the Lao PDR, *Annual Economic Report* (Vientiane Capital: Bank of the Lao PDR, January 2021), 1.

Bibliography

Basic format: Author's last name and first name (or institution's name if no author known). *Title in italics*. City of publication: publisher, year.

Ex: Bank of the Lao PDR. *Annual Economic Report*. Vientiane Capital: Bank of the Lao PDR, January 2021.

Newspaper Article

Footnote

Basic format: Author's first name and last name, "Article Title," *Newspaper name in italics*, day, month, year, page number.

Ex: Souksakhone Vaenkeo, "Decree Orders Huge Cuts in Spending on State Vehicles," *Vientiane Times*, 3 October 2021, 8.

Bibliography

Basic format: Author's last name and first name. "Article Title." *Newspaper name in italics*, day, month, year, page number.

Ex: Vaenkeo, Souksakhone. "Decree Orders Huge Cuts in Spending on State Vehicles." *Vientiane Times*, 3 October 2021.

If the author is not known, you can indicate the name of the institution authoring instead.

Dictionary

Footnote

Basic format: Author's first name and last name, "Article title," *Dictionary name in italic* (Place of publication: Publisher, year), page number.

Ex: Henry Cambell Black, "Responsibility," *Black's Law Dictionary* (Minnesota: West Publishing Co., 1951), 1476.

Bibliography

Basic format: Author's last name and first name. "Article title." *Dictionary name in italic*. Place of publication: Publisher, year.

Ex: Black, Henry Cambell. "Responsibility." *Black's Law Dictionary*. Minnesota: West Publishing Co., 1951.

Thesis/Dissertation

Footnote

Basic format: Author's first name and last name, "Title of thesis or dissertation," diss., (Place: Publisher, year), page number.

Ex: Malcolm Lavoie, "Property Law and Collective Self-Government," SJD diss., (Cambridge: Harvard Law School, 2019), 200.

Bibliography

Basic format: Author's last name and first name. "Title of thesis or dissertation." Diss. Place: Publisher, year.

Ex: Lavoie, Malcolm. "Property Law and Collective Self-Government." SJD diss. Cambridge: Harvard Law School, 2019.

Online source

Footnote

Basic format: Author's first name and last name or institution if not author known (owner of the website), "Page title," Website name, date of publication if available, accessed day, month, year. URL.

Ex: National Assembly, "Status and Role of the NA," National Assembly, accessed 12 October 2021. <http://www.na.gov.la/index.php?r=site/detailcontent&id=41&left=97>.

Bibliography

Basic format: Author's last name and first name or institution if not author known (owner of the website). "Page title." Website Name. Date of publication if available. Accessed day, month, year. URL.

Ex: National Assembly. "Status and Role of the NA." National Assembly. Accessed 12 October 2021. <http://www.na.gov.la/index.php?r=site/detailcontent&id=41&left=97>.

Blog

Footnote

Basic format: Author's first name and last name, "Post Title," *Blog name* (blog), *Larger Publication*, day, month, year, URL.

Ex: Emma Schulte, "Where the Sun Sets and Rises: a New Framework for Rule of Law Internationalization," *Public International Law* (blog), *International Law Blog*, 19 April 2021, <https://internationallaw.blog/2021/04/19/where-the-sun-sets-and-rises-a-new-framework-for-rule-of-law-internationalisation/>.

Bibliography

Basic format: Author's last name and first name. "Post Title." *Blog Name* (blog), *Larger Publication*, day, month, year. URL.

Ex: Schulte, Emma. "Where the Sun Sets and Rises: a New Framework for Rule of Law Internationalization." *Public International Law* (blog), *International Law Blog*, 19 April 2021. <https://internationallaw.blog/2021/04/19/where-the-sun-sets-and-rises-a-new-framework-for-rule-of-law-internationalisation/>.

Interview⁶⁶

Footnote

Basic format: Interviewee's first name last name, position and institution of

⁶⁶ Interviews in the legal field are classified as secondary sources since primary sources are legislation and case-law, see Chapter 1 and the OSCOLA guide (specifically dedicated to legal sources).

interviewee, interviewer's first name last name and place of interview (date, month, year of interview).

Ex: Khamphanh Bounphakom, Vice President of the People's Supreme Court of the Lao PDR, interview by Latdavanh Donkeodavong in Vientiane Capital (25 January 2018).

Bibliography

Basic format: Interviewee's last name, first name. Position and institution of the interviewee. Interview by interviewer's first name and last name, place of interview, date, month, year of interview.

Ex: Bounphakom, Khamphanh. Vice President of the People's Supreme Court of the Lao PDR. Interview by Latdavanh Donkeodavong in Vientiane Capital, 25 January 2018.

Subsequent citations

With the Chicago style of citations, when it is the first time that you cite a source, you must provide the reader with a full reference. However, the subsequent citations can be a shortened in a footnote that includes: the author's last name or institution, a shortened form of title, and article or page number.⁶⁷

Example of full footnotes followed by shortened form footnotes:

Ket Kiettisak, *Civil Procedure*, 2nd ed. (Vientiane Capital: Faculty of Law and Political Science, National University of Laos, 2006), 2.

Albert H. Y. Chen and Andrew Harding, *Constitutional Courts in Asia: A Comparative Perspective* (Cambridge: Cambridge University Press, 2018), 120.

Kiettisak, *Civil Procedure*, 10.

If you cite the same source several times in successive footnotes with no other reference in between the footnotes, you may use the word "Ibid." Ibid. is an abbreviation for the Latin *ibidem* that means "from the same place." If you are referencing the same source but different articles or pages, you should use Ibid followed by a comma and a new article or page number.⁶⁸ "Ibid." should not be used more than three times in a row.

Example:

Ministry of Justice, *Law and Justice* (Vientiane Capital: Ministry of Justice, 2012), 15.

⁶⁷ University of Portland Clark, "Chicago Style (17th Edition) Citation Guide: Short Form and Ibid," University of Portland Clark, accessed 4 October 2021 https://libguides.up.edu/chicago/short_form.

⁶⁸ Western Oregon University, "Chicago Style Guide, for 17th Edition," Western Oregon University, accessed 4 October 2021 <https://research.wou.edu/c.php?g=551307&p=3785494>.

Ibid., 18.
Ibid., 66.
Ibid., 89.

Foreign references

The Chicago style of citation does not cover all types of legal materials. Each country has a different legal system, and there is no guide for referencing providing a complete coverage of all types of sources.⁶⁹ Referencing of material in languages other than Lao should include supplement information for clarity, readability, and simplicity. If you write a paper in Lao and cite materials from non-Lao languages, you should include a Lao translation of the reference. If you write a paper in English and cite English materials, you do not necessarily need to include a Lao translation. For instance, personal name or institution name, and title in non-Lao language should be written in Lao language, followed by the name in the original script. The first reference, subsequent reference, and the bibliography are shown in the examples below.

The first example below shows the Lao translation, followed by the English original script:

First reference:

Martin Stuart-Fox, *ປະຫວັດສາດລາວ* [A History of Laos]
(ແຄມບຣິດ: ມະຫາວິທະຍາໄລແຄມບຣິດ, 1997), 8.

Subsequent reference:

ສະຈວດ ຟອກ, *ປະຫວັດສາດລາວ*, 10.

Bibliography:

Stuart-Fox, Martin. *ປະຫວັດສາດລາວ* [A History of Laos].
ແຄມບຣິດ: ມະຫາວິທະຍາໄລແຄມບຣິດ, 1997.

The second example below shows the Lao translation, followed by the Japanese original script:

First reference:

ມຸນິຢຸກິ ຊິນໂຕະ [新藤 宗幸], *ຄວາມຄິດກ່ຽວກັບຄວາມຮັບຜິດຊອບທາງບໍລິຫານ* [行政責任
を考慮する] (ໂຕກຽວ: ມະຫາວິທະຍາໄລໂຕກຽວ, 2019), 12.

Subsequent reference:

ຊິນໂຕະ, *ຄວາມຄິດກ່ຽວກັບຄວາມຮັບຜິດຊອບທາງບໍລິຫານ*, 12.

Bibliography:

ຊິນໂຕະ, ມຸນິຢຸກິ [新藤 宗幸]. *ຄວາມຄິດກ່ຽວກັບຄວາມຮັບຜິດຊອບທາງບໍລິຫານ* [行政責任
を考慮する]. ໂຕກຽວ: ມະຫາວິທະຍາໄລໂຕກຽວ, 2019.

⁶⁹ Nagoya University, *Writing Guide, Graduate School of Law*, 14-15.

Chapter 5: Structuring a Law Paper

By Dr. Perrine SIMON

5.1 Basics of academic writing

A good law paper requires to respect the basics of academic writing.⁷⁰ General guidance on essay writing applies, not only for essay assignment, but also for student's dissertations, PhD thesis and journal articles. *A good paper is a demonstration with a central idea.* It is a "discourse" articulated around the research question, aiming at persuading readers of a central idea/argument based on elements (evidence) that are described and analysed in your paper. Think of yourself as a lawyer who is presenting his/her argument to the court, his/her demonstration will either argue that the accused is to be found guilty or not guilty, and the lawyer will build a central argument that he/she deploys in his/her pleading. The argument you make in your paper is called a "thesis." Your thesis *should answer the research question stated in the introduction throughout the entire paper.* All your main points in the body of the paper must be a development of the thesis, and all the minor supporting details illustrate the thesis.⁷¹ *A good paper is therefore not a succession of knowledge compiled together* more or less logically; this would be too descriptive and the reader would wonder "Where is the argument?" A thesis is not a topic, nor just facts put together, nor just your personal opinion. A thesis requires a strong central argument and in-depth analysis of the evidence used in the paper.⁷² The thesis must be clearly stated in the introduction of your paper and the reader should think "This paper is going to try to convince me of XX" when reading it.

To construct a *good thesis statement*, you need to *analyse your research topic and its key words.* For example, if your research topic is "Legalisation of surrogate motherhood," you should

⁷⁰ You can find a lot of sources online about academic writing with examples that Universities share on their website. See especially the free online MOOC "Writing in English at University," *Lund University*, accessed October 12, 2021. <https://awelu.srv.lu.se/> (including videos) See also: Harvard College Writing Centre, "Developing a Thesis," *Harvard University*, accessed 10 October 2021.

<https://writingcenter.fas.harvard.edu/pages/developing-thesis>; University of New South Wales Sydney, "The Basics of Essay Writing," *UNSW Sydney*, accessed 10 October 2021 > <https://student.unsw.edu.au/essay-writing-basics>; Monash University, "Research and Learning Online," *Monash University*, accessed October 10, 2021. <https://www.monash.edu/rlo/research-writing-assignments/assignment-types/writing-an-essay/writing-the-introduction>; National University of Singapore, "Writing an Academic Essay," *NUS University*, accessed 10 October 2021. <https://www.nus.edu.sg/celc/research/books/cwtuc/chapter01.pdf>.

⁷¹ See also the Guidance "Writing an Academic Essay," *NUS University*, accessed 12 October 2021. <https://www.nus.edu.sg/celc/research/books/cwtuc/chapter01.pdf>.

⁷² On how to structure an argument, see Lund University "Structuring the argument," *Lund University*, accessed 10 October 2021. <https://awelu.srv.lu.se/the-writing-process/writing-stage/structuring-the-text/structuing-the-argument/>.

analyse from the legal point of view the key words “legalisation” and “surrogate motherhood” in depth: you must find *their legal definition* in dedicated law sources.⁷³ You must gather information by research and reading. For your reading, you can start selectively, either from a recommended bibliography (e.g. by your supervisor or colleagues), either from a pre-search in textbooks and e-library to define your key words properly as a start. You should start with general reading to understand your topic and slowly move to more specific readings. From primary general reading, you will gather more references relevant for your topic, and proceed with a *systematic research review and secondary reading*. You must find and know what has already been published on “your problem” to be able to synthesise and analyse it in your paper; this is called the “literature review.” Your thesis statement cannot be the repetition of another author’s central thesis. A systematic “literature review” is a survey of scholarly sources on a specific topic. It provides an overview of current knowledge, allowing you to identify relevant theories, methods, and gaps in the existing research. Writing a literature review involves finding relevant publications (such as books and journal articles), critically analysing them, and explaining what you found. The literature review is a necessary step to write a good paper with a clear thesis.

It is important to *take notes from your reading* to remember the author’s essential ideas, to be able to integrate later in your paper and reference it properly. As you research and read, keep careful notes about where your material comes from. This is essential to acknowledge your sources in order to show that you are not plagiarising.⁷⁴ Referencing is one of the key features that distinguishes an academic paper from other types of papers, such as opinion pieces in newspapers. You need to write down with the main ideas of the author, the author’s full name, the book or article title, the publisher, date and place of publication and any website details, as well as the precise page number. It is also suggested to write down all the relevant sources you encounter in a separate document that can serve as your draft bibliography.

Based on the knowledge acquired through your data collection and reading, you should *organise your ideas in a coherent structure* that guides the reader through your thesis. An essay/paper is linear; you need to order your ideas in a logical order. You should identify your main ideas and make sure that each one is supported by enough explanations and sources, you should also anticipate counter-arguments. It is suggested to help you mapping out your main arguments to create a draft outline with your main points and list the contentions and sources for each argument.⁷⁵ This will help you to write your paper’s “plan” (structure). *There no strict requirements for constructing your plan, nor on how many parts, chapters or sections it should include.* The plan depends on your topic and research question. Your plan has to be structured around answering the research question. It is common to find plans constituted of two or three

⁷³ See Chapter 2 on Sources.

⁷⁴ See Chapter 3 and 4.

⁷⁵ See for example of essay outlines offered by Monash University, “Structuring on essay.”

main parts, but it can also include more such as four or five, the important being the coherence of the structure and the logical unfolding of the main thesis.⁷⁶ However, they are some “structure-type” that can sometimes help. In comparative law for example, a structure-type is to have one main part on Convergences and the other main part on Differences.⁷⁷

The next step is to *draft and revise your paper*. Do not be scared of the blank page and start writing as soon as you have a working structure. The first draft does not have to be perfect since you shall go through revisions, and possibly re-write some parts. Pay attention to the grammar and style. You have to use a formal language and aim for an objective tone (it is not an opinion in a newspaper!). Do not use an overly complicated language but rather choose the most precise words, along with a fluent and coherent style. Link your sentences to each other by *using sentence connectors indicating contrast* (e.g., however, but, nevertheless, yet, although, despite, whereas, while, etc.) or *indicating addition* (e.g., furthermore, moreover, in addition, also, as well as, etc.), or *indicating reason* (e.g. because, as, due to, so (that), in order to, etc.), or *indicating result* (e.g., so, therefore, as a result, consequently, etc.).⁷⁸ Do not forget concluding sentences at the end of each paragraph and transition sentences between paragraphs. A transition provides the text with a smoother flow between paragraphs and guide your reader. Before submitting a paper, it has to be *edited and proofread*: editing can involve changes of structure, format and contents, whereas proofreading is concerned with correcting mistakes related to, for instance, spelling and punctuation.⁷⁹ Check your text carefully to avoid handing in a text full of typos or with spelling mistakes; this would otherwise certainly lower your grade or give an unfavourable impression to a journal editor or reviewer.

Law papers, like in most fields, follow a similar structure, including an introduction (approximately 10% of the whole paper), body paragraphs (approximately 80%), and a conclusion (approximately 10% or a bit less).

5.2 Introduction

The introduction is one of the most important parts of your paper, on the basis of which the reader or examiner will make its first impression. You should therefore not neglect this part. *The*

⁷⁶ Divisions and sub-divisions may be called “Part,” “Chapter,” “Section,” “Paragraph” depending on the type of paper you are writing (essay, master thesis, journal paper, etc.) and on the requirements of your supervisor, department or publisher.

⁷⁷ Other “structure-type” plans can be adapted to certain topics such as: I. Theory/ II. Limitations; I. Principle/ II. Exception to the principle; I. Conditions/ II. Effects; I. Causes/ II. Consequences; I. Organisation/ II. Functioning; I. Composition/ II. Role. Applied to a concrete topic: I. The conditions for adoption under the civil code, II. The effects of adoption under the Civil Code; or I. The composition of the Supreme Court, II. The role of the Supreme Court.

⁷⁸ For connectors in English grammar, see: Fluent life, “Connectors in English Grammar: Simple Guide to Learn the Use of Linkers,” *Fluent Life*, accessed 10 October 2021. <https://thefluentlife.com/content/linkers-connectors-english-grammar-guide-types-cause-effect-purpose/>

⁷⁹ Ibid.

purpose of the introduction is to give your reader a clear idea of what your paper will cover. The central thesis and supporting arguments must be stated in the introduction. An academic paper is not a novel and you do not need to keep the suspense.

The introduction should provide some *background* on the topic, address the *definition of key words and issues*, place this research work in comparison to the existing literature (significance), state your *research question and central thesis*, *outline the main points* that you will develop in the paper and provide a *transition* into body paragraphs (road-map and announcement).

When writing your introduction, you should follow the *structure “general to specific”* mentioned above. The introduction is often described as an upside-down pyramid – larger at the basis and narrow at tip – to explain that the writer must start by giving general information to “set the scene” and slowly narrow down the focus to introduce the issue, central argument and main contentions.



Source: Monash University, “Research and Learning Online”

Although, you may find introductions of essays and research articles that look different depending on academic discipline, they should nonetheless follow a similar structure and usually say something about previous research in the field before presenting the focus of the paper as well as explaining in what way the research makes a new contribution to the field.⁸⁰ In the legal field, there is no strict recommended number of paragraphs for an introduction, nonetheless the *recommended length is 10% of your entire paper*. It is to be long enough to introduce the particular topic the paper will address in a general sense to provide context, before narrowing down to your particular position and line of argument.

Here are steps that you will find in most introduction of law papers.

The hook – You should begin your introduction with a “hook” that grabs the reader's attention and introduces the general topic. To create a “hook,” here are a few suggestions:

- *State an interesting fact or statistic about your topic.*

⁸⁰ Monash University, “Research and Learning Online.”

Example: “*The industry around surrogacy motherhood was estimated in 2012 to be worth around 6 billion dollars per year. It has become in the last decades a global phenomenon fuelling controversy*” (*add footnote with reference); or using a recent headline from Newspaper: “ ‘*Surrogacy: Why the world needs rules for 'selling' babies.*’ This is the recent title of a BBC article raising the issue of surrogacy motherhood” (*add footnote with reference).

- Or ask a rhetorical question.

Example: “*Is surrogacy motherhood wrong in any case?*”

- Or reveal a common misconception about your topic.

Example: “*Surrogacy motherhood is often perceived as ‘selling’ babies and as a commercialization of human body, whereas it can also be done with no monetary transaction.*”

- Or set the scene of your story by explaining who, when, where, what, why, how?

Example: “*Surrogacy motherhood has been done since ancient times, including under Babylonian law, when women were unable to give birth. Development of technology has slowly moved traditional to gestational surrogacy raising new ethical and legal questions.*”

Key terms and context – You must then provide some *background information* on your particular topic so the reader understands the *key problem being addressed, its context* and why it is an issue worth writing about. *You must define the key terms of your topic.* For this, search for the definition in the general dictionary, but also in legal dictionary and in the law. In this part you must ask yourself “What is my paper about? Why is my topic important?” Try to answer keeping in mind that you should address the reader as if he/she knew nothing about the topic, explain the context (historical, philosophical, political, etc.).

Previous research/literature review – Usually, before narrowing down to your research problem and statement, you will refer to pre-existing research in the specific branch of law/topic. This is called the *literature review*.⁸¹ Please note that in some other fields, the literature review is sometimes a stand-alone chapter after the introduction, like the theoretical framework.⁸² You should review previously published literature associated with your problem. Building on the literature review will allow you to justify your research problem and to highlight the added-value of your contribution.

Example: “*The issue of X has been extensively discussed by the doctrine. Authors A has analysed X and established that XX. Author B has considered (...). Author C has demonstrated that (...) whereas author D has put the emphasis on (...). However, the issue of Z has not been studied in depth (...)*” or “*The issue of X has been extensively discussed by in the literature, by (...) as (...)* *However, the issue X has never been studied from a comparative law point of view (...).*”

⁸¹ See also Section 5.1.

⁸² If your research has a strong interdisciplinary component, the specific methodology should be borrowed from this discipline, as mentioned in Section 1.3.

Research question – The research question is the formulation of the research problem in the form of a specific overall research question, also sometimes called “problematic.” You cannot possibly cover everything on a topic and you are telling the reader on what you have chosen to narrow the focus of your essay. A good research question is essential to guide your research project and *should be stated in the introduction*. Words such as “what,” “which,” “how” and “why” are often used when formulating research questions.⁸³ The acronym SMART is often used to assess the quality of the research question: **S**pecific (enough to answer thoroughly), **M**easurable (researchable using primary and/or secondary sources); **A**chievable (agreed, possible to access the sources); **R**elevant (meaningful and adding value to the pre-existing literature on the topic/field); **T**ime bound (doable within the deadline). The introduction should provide the *ONE overall research question* that the central thesis and plan will answer. The research question should be constructed in coherence with the thesis statement and structure of the paper. Example: “*What are the conditions for an effective fight against human trafficking in Laos?*”/ or formulated differently “*This paper will look at what are the conditions for an effective fight against human trafficking in Laos*” → you could imagine a plan answering the research question with *Part I. Effective criminalisation of human trafficking, Part II. Effective sanctions against human trafficking, Part III. Effective implementation of the existing legislative framework on human trafficking.*

Thesis statement and methodology – State your position on the topic (main argument/hypothesis)⁸⁴ and explain how you will approach the topic by referring to the type of research that you will do (doctrinal legal research, socio-legal research, etc.⁸⁵).

Example: (for doctrinal legal research) “*This paper will argue that ... This research will analyse the rules governing X, and look at the gaps in the existing legislation on X in view of XX...*”

Outline of the structure and main arguments – Provide an overview of how the plan of your paper. This usually involves providing details of the laws, judgments, or case studies that you will use and/or outlining the most important points you are going to make.

5.3 Body of the paper

The body is the core of the paper. It is a sequence of points, made of sections and paragraphs that are linked to each other and together built your central argument (thesis). The body is the place where the paper’s argument, ideas and results are developed and discussed. Ideas brought up in the body of the text must relate to what is presented in the introduction.⁸⁶

⁸³ For advice on quantitative legal research as regards to research questions, see Wing Hong Chui “Quantitative legal research,” 55.

⁸⁴ See Section 5.1 on good thesis statement.

⁸⁵ See Section 1.3 on types of legal research.

⁸⁶ See Section 5.2.

As mentioned before *there are no strict requirements for the structure of the body of the paper. The body must be sub-divided in parts, which can be called “chapter,” “section,” “paragraph,” “sub-paragraph” depending on the type of paper you are writing (e.g. student thesis, publication, etc.). The structure depends on the topic and should be discussed with your supervisor.* There is also no set requirement for the number of paragraphs in each sub-section of the body. The length of the body should be approximately 80% of the whole paper. The important thing is that the argument is logically developed through a series of well-structured paragraphs. Drawing an outline of your main points is very helpful to organise your points logically to support your thesis in a clear and convincing way.

A basic strategy to structure the body part is to *deal with one idea at a time* (1 paragraph = 1 idea) and to order the different issues that are brought up in a logical sequence to make the argument easy to follow. You should when writing frequently ask yourself “Why is this element here?” Your paper is like a puzzle: each piece has a purpose and should be placed where it can fulfil its purpose to the best.

A research paper contains many different kinds of information, that you need to group together by themes, concepts and supporting evidence, which will often been located in specialized parts or sections. A counterargument, for example, can appear within a paragraph, or as a free-standing section, as part of the beginning, or before the ending. *Background material* (historical, context, summary of relevant theory or criticism, definition of a key term or key concept) *often appears at the beginning of the paper*, either in the introduction or between the introduction and the first analytical section. However, it might also appear in some instances near the beginning of the specific section to which it is relevant. The rule of thumb is that *you should always go from “general to specific”* to guide the reader, this is to say that the writer should start by giving *the general information and slowly move towards the more specific* (e.g., explain the general issue and/or rule before giving an example).

One tip often thought in law schools to structure legal arguments is the *acronym IRAC*.⁸⁷ IRAC stands for Issue, Rule, Analysis and Conclusion. Using this simple formula helps to structure paragraphs as well as legal reasoning by making sure that you always: first state the **I**ssue; then explain what the **R**ule(s)/law governing the issue is; then **A**nalyse the rule and explain how and why the rule should or should not apply to the issue; and **C**onclude on your point.

⁸⁷ On IRAC see for example: Wikimand, “IRAC,” *Wikiwand*, accessed 10 October 2021. <https://www.wikiwand.com/en/IRA>; Touro Law Center, “Learning to Work with IRAC,” *Academic Development Program. Touro Law Center*, accessed October 10, 2021. <https://www.tourolaw.edu/ADP/StudySkills/IRAC.aspx>; or California State University Northridge, “Using the I-R-A-C structure in writing exam answers,” *California State University Northridge*, accessed 10 October 2021, https://www.csun.edu/sites/default/files/IRAC%20ANALYSIS_Saunders.pdf. See also section 1.2 on legal reasoning.

Each paragraph should deal with a specific idea. It can be helpful to *ask yourself questions such as “What?” “How?” “Why?” to structure your thoughts* and anticipate questions from your reader or examiner.⁸⁸ For example, you should ask yourself “What evidence shows that the legal phenomenon/issue described by my thesis is true?” To answer this question, you must use the supporting evidence you have collected to demonstrate the truth of your claim. The “what” comes generally at the beginning of the paper since the answer is essentially a descriptive summary of facts. It should not take more than a third of your paper, so that you leave enough space to analysis. In order to anticipate counter-arguments and to be convincing, you should also ask yourself “how?” For example, “How does my thesis stand up to the challenge of a counterargument? How does the introduction of new material – a new way of interpreting the law/evidence (e.g., case law, new legislation, etc.), another set of sources – affect my claims ?”⁸⁹ Finally, asking yourself “why?” may also help you to clarify the implications and significance of your thesis. For example, “Why does my interpretation of a legal phenomenon/ a law matter or should matter?”⁹⁰ The significance is to be addressed in the introduction as well as at the end of your paper in a conclusive section or in the conclusion itself; this will highlight to the reader the value of your paper.

Another important thing to guide the reader are *the titles of paragraphs/sections*.⁹¹ Titles need to be informative (express the idea/text coming after the title) and catchy. You should avoid long and complicated titles. If you are choosing a so-called compound title (a title consisting of two elements, separated by a colon), check that both parts of the title are relevant and necessary.

You should *include keywords of the text in the title* in order to inform your reader of the content. It helps your reader to search in the paper what he/she is interested in. For the main title of your paper, this is also important for your paper to be referenced on search engines. It can sometimes be appropriate to describe what kind of investigation your paper comprises by using nouns such as “study,” “investigation,” “exploration,” “discussion,” or “comparison” could be used. The title should reflect honestly the content of your paper; you should make sure that it does not indicate something that is not actually discussed in the article. The same is true for the introduction.

5.4 Conclusion

The conclusion like the introduction should not be neglected. It is indeed the last impression you will leave on your reader and your last chance to persuade him/her of your thesis.

In your conclusion you must re-state or re-emphasise your thesis on the topic, then summarise your line of argument and key points. But do not simply summarize your essay and do not repeat yourself, this would irritate your reader.

⁸⁸ See Elizabeth Abrams, “Essay Structure,” *Harvard University*, accessed 10 October 2021, <https://writingcenter.fas.harvard.edu/pages/essay-structure>.

⁸⁹ *Ibid.*

⁹⁰ *Ibid.*

⁹¹ *Ibid.*

You must put your key arguments in perspective. You can for example put the emphasis on the implications of your analysis by asking yourself “What does my argument imply, or involve, or suggest?”⁹²

It is recommended to finish off by commenting on the significance of the issue, making a prediction about the future of the issue, or a recommendation to deal with the problem at hand.

Recap template on Essay structure

In this section	you will...
Introduction	<ul style="list-style-type: none"> • give brief background to the topic • address definition of key words and issues • state your thesis • outline your main points, and • provide transition into body paragraphs.
Body paragraphs	<ul style="list-style-type: none"> • provide a topic sentence which says what the main point of each paragraph is • provide supporting details for your topic sentence (based on your research) • synthesise what you have read; that is, show what different people think about the same point • show some critical thinking; that is, tell the readers what you think of what you have read, and • provide in-text citations for your information.
Conclusion	<ul style="list-style-type: none"> • recap your main points • reiterate your thesis, and • give your final word, if any.
References	<ul style="list-style-type: none"> • list the references for each of your in-text citations.

Source: National University of Singapore, Writing Guide

⁹² See Pat Bellanca, “Ending the Essay: Conclusions,” *Harvard University*, accessed 10 October 2021. <https://writingcenter.fas.harvard.edu/pages/ending-essay-conclusions>.

Chapter 6: Format

By Dr. Perrine SIMON and Dr. Latdavanh DONKEODAVONG⁹³

Below is an indicative recommended format for students' thesis. For other type of papers, the specific format should be discussed with the supervisor and/or editor.

6.1 Layout

You must be use Microsoft word for writing and using Microsoft Excel for making chart (or compatible open version).

The font size should be 12 for the body and font size 10 for the footnotes.

For English font, use *Times New Roman*

For Lao font use *Phetsarath OT*.

Line spacing is 1.15 cm

To distribute the text evenly between margins, use "Justify."

Margins should be: for top and bottom 2.5 cm, for left 3cm and right 3 cm, for the gutter 0.0 cm.

Include the page number at the bottom of the page on the right (plain number "1,2,3...").

Do not show the number on the first page.

For the numbering of the headings, use the numbers 1, 2, 3,.. in each heading. For sub-headings level 2, use 1.1, 1.2, 1.3, and for sub-headings level 3, use 1.1.1, 1.1.2,1.1.3. For sub-heading level 4 use a.,b., c. or for sub-heading level 5 use i, ii, iv. Consult with your supervisor about the structure and sub-divisions. You can use the Word automatic numbering scheme to facilitate the formatting of your headings in your document by using multilevel-list templates and built-in heading styles in Word.⁹⁴ The formatting of your heading through this tool is necessary if you want to create a table of content automatically generated.⁹⁵

⁹³ Dr. Sypha CHANTAVONG and Dr. Bounyadeth DAOPASITH have participated in group discussions on this chapter. This guidance is adapted from the Master's Thesis Guidelines of the National University of Laos.

⁹⁴ See Microsoft support, "Number your headings," Microsoft, accessed 10 October 2021. <https://support.microsoft.com/en-us/office/number-your-headings-ce24e028-4cb4-4d4a-bf25-fb2c61fc6585>.

⁹⁵ See Microsoft support, "Insert a table of contents," Microsoft, accessed 10 October 2021. <https://support.microsoft.com/en-us/office/insert-a-table-of-contents-882e8564-0edb-435e-84b5-1d8552ccf0c0>.

6.2 Template of thesis structure

6.2.1 Thesis structure

Front cover page

It should include logo of FLP, the title of the thesis in Lao and English, name and surname of the writer, the name of program, the name of faculty, NUoL and Academic Year.

In-cover page

It should include title of thesis in Lao and English, name surname of advisor and co-advisor, name, and surname of writer with student ID, name of program, name of faculty, NUoL and Academic Year

Approval page/signature page (not for research papers nor textbooks)

It should include the name of advisor and co-advisor, name of defending committee and signature place of committee, place for dean to sign

Foreword (for textbooks only)

The foreword is a short text usually written by someone other than the primary author to introduce the book and highlight its significance and central thesis.

Acknowledgements (for textbooks and thesis)

The acknowledgements section is where you acknowledge and thank everyone who helped you with your research (e.g. supervisor, organisation giving you access to material, people interviewed, etc.). It should not be more than a page.

Abstract in Lao

The abstract is a summary of the whole thesis. It must specify your research problem, central thesis and major elements of your work a highly condensed form. It must be short, around half a page. If you write a paper in English, this is no need for a Lao translation.

Include your key words at the end of the abstract. Example “Keywords: Keyword 1 – Keyword 2 – Keyword 3 – Keyword 4.”

Abstract in English

Translate your abstract into English if you write a paper in Lao, including your key words.

Table of contents

Include a table of content displaying the whole structure and all sub-sections.

You should not type the table of contents yourself but use the automatically generated table of contents using the document's headings (titles formatted as heading 1, heading 2, etc.).⁹⁶ With the Word table of contents (cf. formatting of headings), the table of contents does not update automatically. You must click on it, use the "Update tables, index ..." button and choose the desired option.

Table of figures (optional)

Applicable if your thesis is using tables of figures.

Abbreviation (optional)

List all the abbreviations used in your paper and give the full name of the abbreviation. For example: NA = National Assembly of Laos, ADB = Asian Development Bank.

Introduction

The introduction is a stand-alone part, which can be called introduction or chapter 1 (heading 1). For more details on the introduction, please refer to Chapter 5 of these guidelines.

Body

For more details on the body of the paper, please refer to Chapter 5 of these guidelines.

The body of a paper is structured in chapters and sub-divisions.

Heading 1 (Chapter 1, 2, 3...)

Heading 2 (1.1, 1.2, 1.3 ; or 2.1, 2.2, 2.3; or 3.1, 3.2, 3.3...)

Heading 3 (1.1.1, 1.1.2, 1.1.3....; or 2.1.1, 2.1.2, 2.1.3....; 3.1.1, 3.1.2...)

Heading 4 (a., b., c., d., ...)

Heading 5 (*i, ii, iii, iv, v...*)

There is no compulsory rule on how many chapters and sub-divisions you can have nor on how to call them. Your sub-divisions should always mirror each other, for example you only sub-division heading/level 4 if you have a. but also b. and/or more (c., d, ...). The same goes for each sub-headings. You can decide to have four, five or six chapters, depending on your research topic and research questions. The structure and sub-divisions should be discussed with your supervisor.

See the examples in the following section 6.2.2 .

Conclusion

For more details on the conclusion, please refer to Chapter 5 of these guidelines.

⁹⁶ See Section 6.1 on Microsoft support, "Insert a table of contents."

Bibliography

You must list all sources referenced in the paper (used in the footnotes) and should structure your bibliography according to the type of sources. *All sources must be cited in alphabetical order and be complete.*

You can distinguish between primary and secondary sources in your bibliography, or use different sub-divisions by types of resources or themes. Consult with your supervisor about the detailed structure.

Appendix (optional)

Information about the author(s) (for textbook and thesis).

6.2.2 Examples of thesis structure

Here are two examples of possible structure. However, you should note that these are just examples and that the structure depends on your topic and research question so that each thesis has a different detailed structure.

Example 1

Example one shows a structure with the introduction plus four chapter headings and the conclusion, with each chapter's sub-divisions headings.

- Front page
- In-cover page
- Approval page/signature page
- Foreword (for textbook only)
- Acknowledgement (for textbook and thesis)
- Abstract in Lao (no Lao translation if you write a paper in English)
- Abstract in English
- Table of contents
- Table of figures (optional)
- Abbreviation (optional)

- Introduction (heading 1)

- Chapter 1: (heading 1)
 - 1.1 (heading 2)
 - 1.1.1 (heading 3)
 - a. (heading 4)
 - i.* (heading 5)
 - ii.* (heading 5)
 - b. (heading 4)
 - i.* (heading 5)

- a. (heading 4)
 - i.* (heading 5)
 - ii.* (heading 5)
 - b. (heading 4)
 - i.* (heading 5)
 - ii.* (heading 5)
- 3.2.2 (heading 3)

Chapter 4: (heading 1)

- 4.1 (heading 2)
 - 4.1.1 (heading 3)
 - a. (heading 4)
 - i.* (heading 5)
 - ii.* (heading 5)
 - b. (heading 4)
 - i.* (heading 5)
 - ii.* (heading 5)
 - 4.1.2 (heading 3)
 - a. (heading 4)
 - i.* (heading 5)
 - ii.* (heading 5)
 - b. (heading 4)
 - i.* (heading 5)
 - ii.* (heading 5)
- 4.2 (heading 2)
 - 4.2.1 (heading 3)
 - a. (heading 4)
 - i.* (heading 5)
 - ii.* (heading 5)
 - b. (heading 4)
 - i.* (heading 5)
 - ii.* (heading 5)
 - 4.2.2 (heading 3)
 - a. (heading 4)
 - i.* (heading 5)
 - ii.* (heading 5)
 - b. (heading 4)
 - i.* (heading 5)
 - ii.* (heading 5)

Conclusion

Bibliography

Appendix (optional)

Information about the author (for textbook and thesis)

Example 2

Example two shows a similar structure but with five chapters including the introduction and the conclusion as chapters (3 body + 2), with each chapter's sub-divisions headings.

Front page

In-cover page

Approval page/signature page

Foreword (for textbook only)

Acknowledgement (for textbook and thesis)

Abstract in Lao (no Lao translation if you write a paper in English)

Abstract in English

Table of contents

Table of figures (optional)

Abbreviation (optional)

Chapter 1: Introduction (heading 1)

1.1 (heading 2)

1.1.1 (heading 3)

a. (heading 4)

b. (heading 4)

c. (heading 4)

1.1.2 (heading 3)

a. (heading 4)

b. (heading 4)

i. (heading 5)

ii. (heading 5)

iii. (heading 5)

1.2 (heading 2)

1.2.1 (heading 3)

a. (heading 4)

b. (heading 4)

1.2.2 (heading 3)

a. (heading 4)

b. (heading 4)

Chapter 2: (heading 1)

2.1 (heading 2)

2.1.1 (heading 3)

a. (heading 4)

b. (heading 4)

c. (heading 4)

2.1.2 (heading 3)

a. (heading 4)

i. (heading 5)

ii. (heading 5)

- b. (heading 4)
- 2.2 (heading 2)
 - 2.2.1 (heading 3)
 - 2.2.2 (heading 3)

Chapter 3: (heading 1)

Use a similar *structure with* sub-headings level 3, as well sub-headings level 4 and level 5 if applicable.

Chapter 4: (heading 1)

Use a similar *structure with* sub-headings level 3, as well sub-headings level 4 and level 5 if applicable.

Chapter 5: Conclusion

Bibliography

Appendix (optional)

Information about the author (for textbook and thesis)

Example 3

Example three shows a concrete example of a thesis structure: Başak, Bağlayan, “Corporations and human rights. Searching for international norms for corporate conduct in domestic case law,” PhD diss., Luxembourg: University of Luxembourg, 2017.

Chapter 1: General introduction (*heading 1*)

1.1 Background (*heading 2*)

1.2 The Structure of the Thesis (*heading 2*)

1.3 Conceptual Framework (*heading 2*)

1.4 Terminological Clarifications (*heading 2*)

1.5 Categorization, Selection and Overview of Domestic Case Law (*heading 2*)

1.5.1 Domestic Court Cases (*heading 3*)

a. Data Collection (*heading 4*)

b. Retrieving Cases from the Oxford Reports on International Law in Domestic Courts (*heading 4*)

1.5.2 OECD National Contact Points and the ‘Specific Instances’ (*heading 3*)

Chapter 2: Existing framework for corporate human rights obligations

2.1 Justification for corporate human rights obligations

2.2 Framework for corporate human rights obligations

2.2.1 Overview of developments regulating corporate conduct

2.2.2 The UNGPS on business and human rights

- a. State duty to protect
- b. Corporate responsibility to respect
- c. Access to remedy

2.3 Concluding remarks

Chapter 3: Norms for corporate conduct in domestic case law

3.1 Introduction

3.2 Aiding and abetting liability

3.2.1 Case examples

3.2.2 Aiding and abetting and international law

3.2.3 Decisions of domestic courts

3.2.4 Preliminary conclusions

3.3 The prohibition against torture, cruel, inhuman and degrading treatment

3.3.1 Case examples

3.3.2 The international human rights framework prohibiting torture and “cruel, inhuman or degrading treatment or punishment”

3.3.3 Decisions of domestic courts

3.3.4 Preliminary conclusions

3.4 Concluding remarks

Chapter 4: The OECD and the guidelines for Multinational enterprises

4.1 The OECD

4.2 Origins of the OECD guidelines

4.3 General scope of the guidelines

4.4 Content of the guidelines

4.5 Legal nature of the substantive provisions of the guidelines

4.6 Concluding remarks

Chapter 5: Implementation procedure of the OECD guidelines

5.1 Investment committee

5.2 The National Contact Point and the ‘specific instance’ procedure

5.2.1 The National Contact Points and the principle of ‘functional equivalence’

5.2.2 ‘Specific instance’ procedure

a. ‘Initial assessment’

b. Mediation and offering ‘good offices’

c. Conclusion of the specific instance

5.3 Concluding remarks

Chapter 6: General conclusion

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