

# SCIENTIFIC LEGAL WRITING

Dr Perrine SIMON, Liaison Officer of the University of  
Luxembourg

Inter-University Project Laos-Luxembourg

# Plan - part I

1. What is academic writing?
  2. Principles of academic writing
  3. Where to start?
  4. The IRAC formula
  5. Structure of an academic paper
- + questions / exercises after each part

# I. What is academic writing?

- Major means by which researchers communicate with each other and other parties

- **Transmission of legal ideas**

you succeed when your peers **understand** your work and **use it** to motivate their own

- Critical part of the research process
- A set of pragmatic skills honed through experience (**practice**)

# I. What is academic writing?

## Purpose (examples)

- ❑ To criticise a theory or argument made by another author

Ex.: criticise Ronald Dworkin's theory of law

Ex.: companies violate fundamental rights in Laos

- ❑ To comment on a recent judgment

Ex.: *Lao Holdings N.V. v. Lao People's Democratic Republic* (ICSID Case No. ARB(AF)/12/6)

- ❑ To suggest changes in law(s)

Ex.: Tax Law (Article 60) – to change the tax rate for income over 40 million Kip from 24% to 30%

# Questions: part I

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**Why do we need academic writing?**



**What would you write an article about?**

# II. Principles of academic writing

## □ CLARITY

It is the author's job to make the reader's job easy

## □ SIMPLICITY

The more complex your writing, the smarter you are?

## □ BREVITY

KISS: Keep It Short and Simple

## □ OBJECTIVITY

It is your opinion based on research

# III. Where to start?

“The best way to start is any way that works for you.”\*

- ❑ Writing spontaneously (creating while writing)
- ❑ Having a plan (purpose/question/structure of the paper)
- ❑ Starting with an idea but without a clear plan
- ❑ Writing separate parts of the paper and then putting them together

\* Sword, H. (2017) *Air & light & time & space: How successful academics write*. London: Harvard University Press.

# III. Where to start?

## □ Freewriting

- Set some time (for example, write for 30 minutes)
- Turn off your telephone and other distractions (TV...)
- Write in a flow (anything that comes to mind)
- No criticism! There is no reader

## □ Mapping

- Write your main topic in the centre of the sheet of paper
- Draw lines and link any related concepts to it

## □ Journalistic questions

- Ask questions about your topic
- Who? What? Where? When? Why? How?



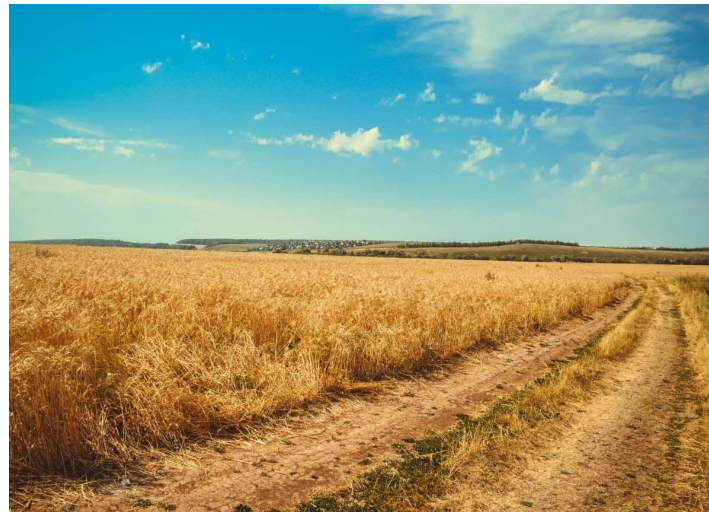
# Exercises: part III

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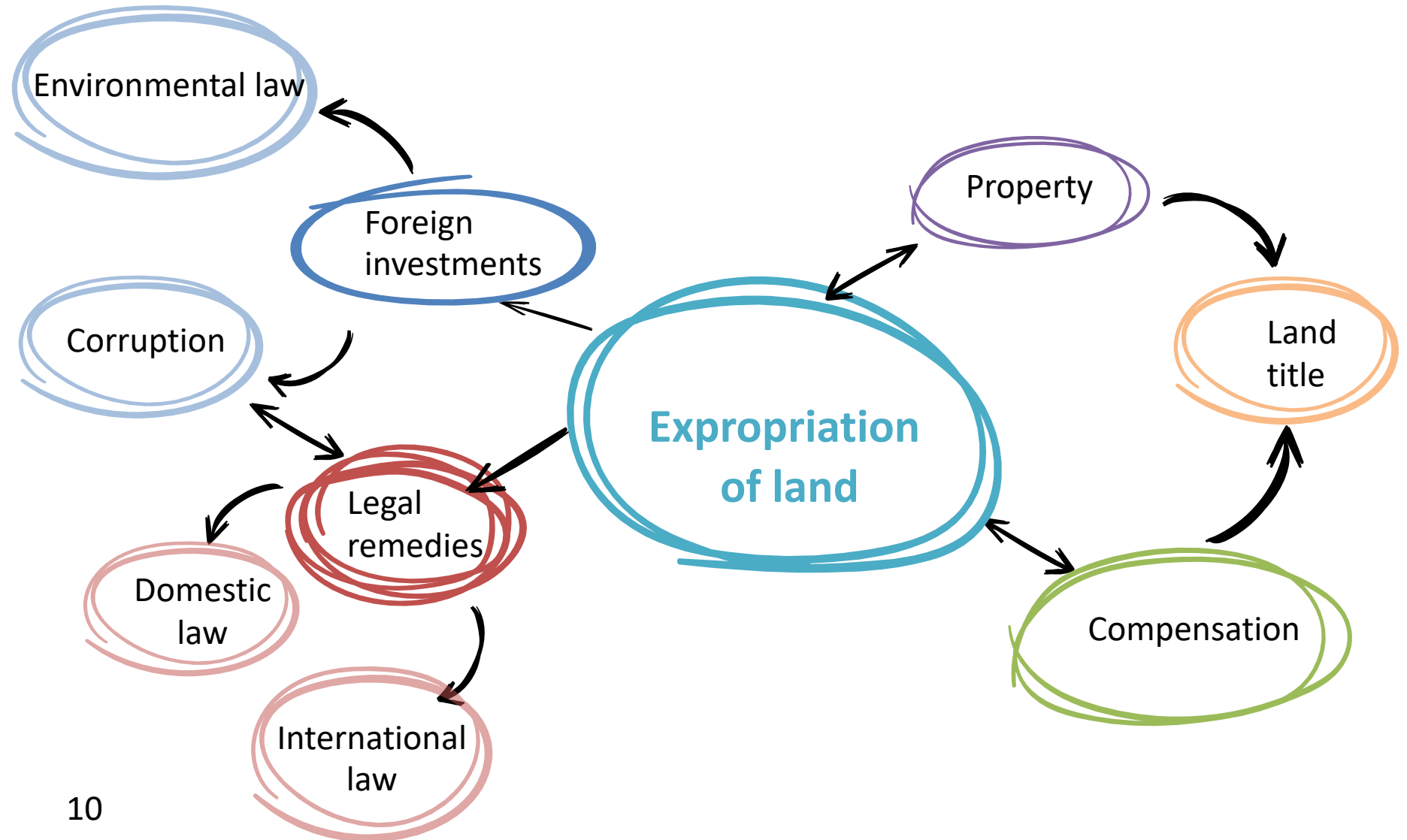


Let's practice mindmapping!

Find all related concepts  
to **“expropriation of land”**



# Mind mapping



# IV. The IRAC formula

**I**ssue – identify the issue to be resolved

**R**ule – what is the rule/law governing the issue?

**A**nalysis – provide reasons why the rule does or does not apply to the facts

**C**onclusion – whether the rule applies to a set of facts

# IV. The IRAC formula: issue spotting

Mr. Archer Jones was at a work party, drinking beer. As he was walking through the hallway and carrying his beer, he spilled some on the floor. He decided to go to the cafeteria and get some paper towel to clean up the mess. Upon entering the cafeteria to get paper towel, he saw his coworker, Cyril, kissing his ex-girlfriend (and coworker) Lana. Archer got instantly jealous and punched an unsuspecting Cyril in the face.

In the meantime, the Human Resources director, Pam, heard yelling going on and wanted to see what was going on. As she walked hurriedly to the cafeteria where the ruckus was coming from, she slipped on the beer that had been spilled by Archer and hurt her knee.

**What are the legal issues here (if any)?**

# IV. The IRAC formula: rule

“A battery is an act with intent to commit a harmful or offensive contact ....or imminent apprehension of such contact...”

- What are the elements of the rule?
- What are the exceptions to the rule?

“Archer hit Cyril and this is a battery” – is this a correct statement of the rule?

# IV. The IRAC formula: analysis / application

## 1. Apply the Rule to the facts (issue)

- Did Archer act with intention to commit a harmful or offensive contact? What if he says that he did not intend to harm Cyril?
- Was it a harmful or offensive contact?
- Did Cyril sustain an imminent fear of being harmed?

## 2. Discuss both sides of the facts

- What will Archer argue (if you are Pam)?
- He might point out that he was *going to get* a paper towel and Pam happened to walk by during that one minute he was in another room
- Pam might argue that Archer should have put a sign to warn everyone that beer had been spilled
- Archer might respond by saying that it was “open and obvious” to everyone that the floor had been wet.

# IV. The IRAC formula: conclusion

- **Take a position** (play “the judge”)
- Does the rule apply to the facts?
- Is Archer guilty of battery?
- Is Archer liable to Pam for negligence?
- How could have the parties acted differently in order to avoid this legal problem?

# V. Structure of an academic paper

1. **Title**
2. *Table of contents*
3. *Abstract*
4. **Introduction**
5. **Background, analysis of issues, results, discussion**
6. **Conclusion**
7. *Bibliography*
8. *Annexes*



# V. Structure of an academic paper: title

- **Short** (concise)
- **Specific** (keywords)
- **Catchy** (reader)
  - “The role of law in the Rule of law, the contribution of academics in Lao PDR”
  - “Follow the Money, if you can – Possible Solutions for Enhanced FIU Cooperation Under Improved Data Protection Rules”
  - “Food Control in Luxembourg: a permissive system?”
  - “Foreign Investments and Environmental Protection: the Case of Laos”

# V. Structure of an academic paper: example

## “The role of law in the Rule of law, the contribution of academics in Lao PDR”

### 1. Setting the scene: Rule of Law and Development in Lao PDR

- 1.1. Rule of Law and Development
- 1.2. Transplanting the Rule of Law in Laos
- 1.3. Rule of Law situation in Laos

### 2. Contributing to the on-going building of a “Law School”

- 2.1. Emergence of (legal) higher education in Laos
- 2.2. A concrete Inter-university cooperation

### 3. The cultural and political parameters limiting academic scholarship

- 3.1. Lack of access to legal resources
- 3.2. Lack of support to academic research
- 3.3. Finding a Lao way forward

# V. Structure of an academic paper: example

## “Foreign Investments and Environmental Protection: the Case of Laos”

1. Introduction
2. General features: International law on foreign investments and environmental protection
  - 2.1. Brief introduction to International Investment law (IIL)
  - 2.2. Recent trends in IIL in relation to environmental protection
3. Environmental protection and foreign direct investments in Laos
  - 3.1. The international legal framework
  - 3.2. The domestic legal framework
    - 3.2.1. The Lao Mechanism for investment promotion
    - 3.2.2. The Lao Mechanism for the Protection of the Environment
4. Critical Analysis of the Legal Framework
  - 4.1. The Deficiencies of the IITs signed by Laos
  - 4.2. The Deficiencies of the domestic legal framework and of its enforcement
5. Concluding remarks and policy recommendations

# Plan – Part 2: Introduction

1. The purpose of introduction
2. The structure of introduction
3. Takeaways from the workshops

# I. The purpose of introduction

- To describe the problem that will be addressed (background information)
- To establish the purpose of the article
- To identify the larger problem to which you are contributing  
Ex.: use of child labour by multinational companies in Laos / violation of human rights by companies in Laos
- To give readers a “mental map” of your paper (they will know what to expect and where you are going)
- To make a first impression (reader makes a judgment)

# I. The purpose of introduction: example

After 1975 the legal system was brought under the communism regime and Laos became a country with no constitution and very little other legislation.

Since 1986 there have however been effort to build a modern legal system which is adjusted to the need of Market Economy. In order to have foreign trade and to cooperate with other countries and also for them to have confidence in the judicial system. Therefore, Laos has taken on a plan to develop the legal system.

The Government of Laos is now actively promoting development of the country, at the same time the Government need to reform and adopt new law to deal with crimes.

The Government has stated more than 40 laws to cope with crimes such as Constitution, Criminal Procedure Law, Penal Law, Prosecutor Law, Court Law, Degree of Corruption, Foreign Investment Law, etc.

In Laos, the local situation is stable but there are still many cases, such as theft, swindling, embezzlement, and transgression of the state tax regulation etc., which is a corruption problem that the Government of the Lao PDR is paying important attention to.

# II. The structure of the introduction

## 1. Opening

- 1<sup>st</sup> paragraph / lines which introduces the larger problem that the paper is targeting
- What is the context?

## 2. Background

- What happened before?
- Has this topic been researched? What were the results of this research?

## 3. Challenge

- What are the specific hypotheses/questions/goals of the current work?

## II. The structure of the introduction



Larger  
problem



Specific  
question



## II. The structure of the introduction

### “Berlioz 2: Will the Court of Justice protect fundamental rights?”

Exchange of information upon request and the right to judicial review in the context of this procedure remain in the spotlight of legal debate. Less than a year after the delivery of two landmark judgments by the Administrative Tribunal of Luxembourg in the so-called “Shakira case”, the Luxembourgish legislature adopted amendments to the law of 25 November 2014. The changes to the law empower the information holders to challenge information requests received from the state tax authorities and require the latter to check the foreseeable relevance of information requested by another state. Less than a month after the introduction of these amendments, the Administrative Court of Luxembourg, having examined the state’s appeal in the “Shakira case”, invited the Court of Justice of the European Union (“CJEU”) to answer two prejudicial questions. They concern the right to judicial remedy for information holders and taxpayers as well as the interpretation of the foreseeable relevance standard in the exchange of information procedure. The reasoning of the Administrative Court underpinning the decision to refer these questions to the CJEU will be discussed in the present article.

# Takeaways from the workshops?



# QUESTIONS?

Thank you for you attention!



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