

Research Questions and Legal Problems

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Outline

- Discussion of the literature;
- Formulating a legal problem (x2);
- Potential topics for research (x2);
- Developing a thesis statement/ research question;
- Stages of writing.



Literature Discussion

- -- Eva Brems, “Methods in legal human rights research”, in Fons Coomans, Fred Grünfeld and Menno T. Kamminga (eds.), *Methods of Human Rights Research*, (Intersentia, 2009), pp 77-89.
- -- Jan M. Smits, “Redefining Normative Legal Science: Towards an Argumentative Discipline”, *ibid.*, pp 45-58.



Formulating a Legal Problem from a Situation (1)

- Country A has been going through economic hardships caused by drought and a largely subsistence-based agricultural economy. Moreover, its ethnic minority, located in the southern part of the country, where most of its oil reserves are located, has started to become increasingly vocal about seceding. While initially that movement was largely pacific, in the last years there have been a number of armed clashes between the government forces and militia, supporting the independence movement. Those clashes have resulted in a large number of civilian casualties and massive outflows of the population from the affected areas.



Potential Topics for Legal Research (2)

- Peaceful resolution of disputes;
- Right to self-determination;
- Right to (remedial) secession;
- Rights of minorities;
- Right to food;
- Right to water;
- Protection of individuals under IHL;
- Protection of refugees and IDPs.
- Others...



Formulating a Legal Problem from a Situation (2)

- A country has been facing major economic problems for several years. There is high unemployment and frequent strikes. The public sector salaries and pensions are slashed up to half. At the same time many refugees keep flowing in. In the last days a number of refugees have drowned in the sea. In an instance, the coastguard simply stood by while some of them were drowning. In reaction, a government minister said that it was too expensive to save their lives.



Potential Topics for Legal Research (2)

- Right to work
- Right to social assistance and security
- Refugee rights
- Right to life
- State responsibility
- Non-discrimination
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Structure of Paper/Essay/ Thesis

- Introduction
- Body
- Conclusions/ final remarks.



Developing a Thesis/Research Question Statement

- Identify a topic of interest;
- Derive and compose a main research question statement/divide in subquestions, where possible;
- Refine and polish the research question statement;
- Complete the research question statement (background, research question/subquestions, structure, short bibliography with key references).



Research Question Statement

- Informs the reader about your approach to the subject matter under discussion.
- Provides a road-map for the paper.
- Makes a claim that others might dispute.
- Usually is a single sentence somewhere in your first section/paragraph that presents your argument to the reader.
- The body of the paper/essay/thesis gathers and organizes evidence that will eventually persuade the reader of the logic of your interpretation/ approach/ argument.



Stages of Writing

- Planning to write (preliminary research/ time management)
- Construing an argument
- Working with sources/ citing/ managing/ updating
- Drafting and revising your paper
- Finishing and proofreading.



Literature Review

- You need to be aware of the key sources/
references
- You need to engage with existing literature on
the topic
- You need to add your own assessment when
developing your arguments
- Do not be afraid to be critical!



Constructing a Paper/Thesis?

- 1. Determine what kind of paper you are writing:
- An **analytical** paper breaks down an issue or an idea into its component parts, evaluates the issue or idea, and presents this to the reader.
- An **descriptive** paper explains something to the reader.
- An **argumentative** paper makes a claim about a topic and justifies this claim with specific evidence. The **claim** could be an opinion, a policy proposal, an evaluation, a cause-and-effect statement, or an interpretation.
- 2. Your research question should be specific—it should cover only what you will discuss in your paper and should be supported with specific evidence.
- 3. The research question usually appears at the end of the first section/paragraph of the paper.
- 4. Your topic may change as you write, so you may need to revise your research question to reflect exactly what you have discussed in the paper.



Assessing and Reassessing (1)

Issues to consider when assessing a paper/thesis:

- *Do I answer the question?* Re-reading the paper can help you fix an argument that misses the focus of the research question.
- *Have I taken a position that others might challenge or oppose?* If your thesis simply states facts that no one would, or even could, disagree with, it is possible that you are simply providing a summary, rather than making an argument.
- Is my thesis statement specific enough? Neither too broad, nor too narrow!



Assessing and Reassessing (2)

- Research questions that are *too vague* often do not have a strong argument. You need to explain *why* something is “good”; or *what specifically* makes something “successful”?
- *Does the research question pass the “so what?” test?* If a reader’s first response is, “so what?”, then you need to clarify, to forge a relationship, or to connect to a larger legal issue.
- *Does my essay support my research question specifically and without wandering?* If your research question and the body of your paper do not seem to go together, one of them has to change. Remember to reassess and revise your writing as necessary.
- *Does my explanation of the methodology pass the “how and why?” test?* If a reader’s first response is “how?” or “why?” your thesis may be too open-ended and lack guidance for the reader. See what you can add to give the reader a better take on your position right from the beginning.



International Law and...

- [10th Anniversary Conference of the European Society of International Law](#) September 2014, Vienna. An example of inter-disciplinarity:
- **Agora 1:** International Law as a Generator of National Law; **Agora 2:** National Law as a Generator of International Law; **Agora 3:** Trade and Investment between International and European Law; **Agora 4:** International Law and Economics; **Agora 5:** International Law and Literature; **Agora 6:** International Law and Feminism: Anything New Under the Sun?; **Agora 7:** International Law and History: The Return of the Past?; **Agora 8:** International Law and Political Science: The Need to Learn From Each Other; **Agora 9:** International Law and the Human Sciences: Anthropology and Sociology; **Agora 10:** International Law and Sports: Competing for Governance?; **Agora 11:** International Law and Film: The Power of Pictures; **Agora 12:** International Law and the Aesthetic; **Agora 13:** International Law and Philology/Linguistics; **Agora 14:** International Law and New Technologies; **Agora 15:** International Law and Theology.




Concluding Remarks

- Research questions need to focus on a specific, well-thought and formulated legal question.
- Specificity depends on the space available.
- Make sure you state your research question upfront and explain your methodological choices.
- You need to master the key references and sources and construe/present your arguments in a coherent/logical manner.



Additional Literature

- Chris Mounsey, *Essays and dissertations*, (Oxford University Press, 2002);
- Eugene Volokh, *Academic Legal Writing: Law Review Articles, Student Notes, Seminar Papers, and Getting on a Law Review*, third edition, (Foundation Press, 2007);
- Gail Craswell, *Writing for Academic Success: A Postgraduate Guide*, (Sage Publications, 2005).
-  Nordic Journal of Human Rights, Special Issue: Quantifying Human Rights, Vol. 30(3), 2012.