MANUAL FOR
LLM RESEARCH COMPONENT

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Revised by
Members of the LLM Committee
1. **AIM OF RESEARCH COMPONENT**

LLM students are required to do a “research component” as part of every LLM module. In their study manuals lecturers provide particulars of the format which this component takes for each module.

The “research component” may take any of the following forms:

- short article (or note);
- case discussion;
- heads of argument; or a
- legal opinion.

The aim of this manual is to give students an opportunity to do independent research. Students have to identify a legal "problem", find sources on this issue, read and understand these sources, and formulate a written "answer" in a motivated, clear and structured manner. The lecturer may also prescribe a research topic. In other words, the process of writing a research component is aimed at developing research, reading and writing skills.

These skills are important for the legal practitioner. When a legal practitioner seeks answers to legal problems, he or she has to undertake research by finding sources, reading them and recording research results in the form of, for example, opinions, arguments and judgments.

Acquiring these skills is also the first step towards any post-graduate study. The difference between a LLB research component and a LLM research component (and LLD or PhD thesis) is that at the LLB level you are not required to be innovative and original.

2. **FORM AND FORMAT**

Each of the possibilities serve a different purpose and should conform with certain stylistic requirements. The *De Jure* editorial style may also be followed when so requested by the lecturer (see par 9.4).

2.1 **Short article (or note)**

An article is an academic discussion of a law-related topic, prepared for publication in a law journal, such as the *South African Law Journal* or *De Jure*. The purpose of such an article is to make a contribution to academic (theoretical or principled) discussion about a particular topic. Ideally, the topic addressed should relate to a new development (such as a new statute) or to an academic controversy (eg where decisions or authors differ on an issue).

The suggested format for an article is similar to those in most law journals. Footnotes should be used to acknowledge authority or otherwise refer to a source.
For an example, see Murray, R “A feminist perspective on reform of the African human rights system” (2001) 2 African Human Rights Law Journal 205. (The first page of this article is reprinted in Annexure “A”.)

A short article is, in principle, the same as a “note” (“aantekening” in Afrikaans). These are used only in a number of journals. The main difference between “short articles” and “notes” is the way in which authority or sources are acknowledged. Whilst footnotes are used in articles, regardless of length in notes acknowledgements and references appear in the text, usually placed between brackets.

For an example of a note, see Van Eck, BPS “Misuse of the internet at the workplace” (2001) 34 De Jure 364. (The first page of this note is reproduced in Annexure “B”).

2.2 Case discussion

A case discussion (or case note) is a discussion of a recently decided (and usually reported) judicial decision. In most journals, these appear under a separate heading (Case notes, Recent cases etc). A case discussion should go beyond merely summarising a decision. A case discussion should also contextualise the case (and the finding), by for example referring to the social or political circumstances under which the decision was given. The discussion should further analyse the finding, criticise aspects if appropriate, highlight links with other aspects of the law and with previous decisions, and show what the implications are (eg for future legal developments).

The suggested format for a case discussion is similar to that of similar discussions in law journals. Footnotes are usually not used; the format is similar to that of the “note”.


2.3 Heads of argument

Heads of argument are based on a real or hypothetical problem (set of facts), directed at a judicial officer (judge or magistrate). The purpose of heads of argument is to set out arguments in a clear, concise and convincing way. Authority should be acknowledged, either in footnotes or included in the text. Numbering should be used. The heads of argument should contain a bibliography.

We suggest you structure your heads of argument as follows:
In the …………………………….. Court of the Republic of South Africa
Case number: ………………………..
In the matter between

....................................................................................................................Applicant/
The State/
Plaintiff/
Appellant

and

....................................................................................................................Respondent/
Accused/
Defendant/
Respondent

....................................................................................................................’s Heads of Argument

Table of contents
(on a separate page, with page numbers)

I. Introduction
   • background, developments, charge, etc.

II. Facts

III. Question(s) of law
   • keep issues separate (arising from facts)

IV. Applicable law
   • authority (statute, case law, other)

V. Application of law to facts
   • keep issues separate
   • answer questions of law
   • argue

VI. Conclusion
   • what do you seek from the court (remedy, convict accused, dismiss action, appeal should succeed)

Signed on (day and month) ………. 200…… at (place) …………………

Advocate for the ……………………. (applicant accused, etc)

Copy to: …………………………………………………………………………………
VII. List of authorities (Bibliography)

- in alphabetical or chronological sequence
- keep books, journal articles and cases separate
- references must be complete and consistent

2.4 Legal opinion or legal memorandum

A legal opinion is also based on a real or hypothetical set of facts (or hypothetical case), directed at colleagues in a law firm, a government official, client or the like. The purpose of a legal opinion is to analyse and provide a motivated solution to a legal problem or issue. Again, authority and other sources should be acknowledged, preferably in the form of footnotes. A bibliography should also be provided.

The suggested format is as follows:

LEGAL MEMORANDUM

To: ..........................

From: ..........................

Re: ..........................

Date: ..........................

i. Statement of facts
ii. Questions presented (question of law)
iii. Short answer
iv. Applicable law
v. Application of law to the facts for each issue:
   - rule or authority
   - application to facts
   - conclusion
   - weaknesses in case considered
vi. Summary and recommendation

3. THE TOPIC AND SUPERVISOR

You will either be allowed to choose a topic that interests you or your lecturer will prescribe a topic in each LLM subject. Read widely and define the topic for your research component. The topic must not be too vague or extensive in its scope. "HIV/AIDS and the law", for example, is not a suitable topic. Such an expansive topic can hardly be addressed even in a doctoral thesis. Rather focus on one aspect of the topic such as "The duty of HIV positive health care workers to disclose their HIV status".
4. EVALUATION

Your written work is evaluated for its form and content. (The ratio is approximately 30% for form, and 70% for content).

Form: Elements to pay attention to:
- Introductory page
- Table of contents (detailed, accurate)
- Numbering (consistent, same heading levels numbered similarly)
- Footnotes (correctly used, consistency)
- Style (consistency, eg. use of italics for case names)
- Language (grammar, appropriate word choice; not pompous or unnecessarily verbose)
- Punctuation
- Bibliography (alphabetical, complete, subdivision for primary sources (legislation, case-law) and secondary sources (books, journal articles etc)

Content: The following should be taken into account:
- Topic (relevance, clarity, precision - not too vague or too expansive)
- Research (research methods, comprehensive, most important sources consulted)
- Systematic treatment (clear structure) of the topic
- Introduction, argument/content, conclusion – linked by "golden thread"
- Logic and persuasiveness of arguments
- Correct use of authority and scientific justification of statements

5. FORMAT OF RESEARCH COMPONENT

The formal requirements of the research component are as follows:

Length: Minimum of 3 000 and a maximum of 4 500 words (footnotes included). It is compulsory to indicate the number of words (including footnotes) on the last page of your research component (directly after the conclusion). Up to 5 % may be deducted for non-compliance with this rule (that is, exceeding OR not stating the word count).

Font type: Use any font type.

Font size: 12 point for the text, and 10 point for the footnotes.

Spacing: 1 ½ spacing. The text should be justified.

Binding: Any secure format. Not back-to-back.
6. PLANNING

Finalising a research component is a process. There should be a pre-writing phase, during which students do extensive research and choose a precise topic. Writing a first draft is only a small part of the process. Once you have a first draft, where applicable, it should be revised and reworked. Finally, it should be refined ("polished") to ensure that there are no spelling mistakes or typographical errors, that the style is consistent, and that all references are correct.

You will need to prepare a rough “calendar” or “plan” to ensure that you allow enough time for each of these stages.

The worst research components are often littered with unnecessary typing errors and inconsistencies of style. These mistakes result from a mad rush to meet the deadline.

7. RESEARCH

7.1 Introduction

When you choose a topic for your research you should also choose an appropriate research methodology. This may be a legal historical, comparative legal, legal philosophical or a logical-analytical approach.

Acknowledge sources throughout your research component. Only refer to sources which you have consulted yourself. If you rely on an idea or information from a source other than your own thoughts, indicate that fact (usually by way of a footnote). If you do not, you commit plagiarism, the worst of academic sins. Plagiarism is the taking of the products of another person’s mind (ideas, information found) and presenting them as your own.

Even if you acknowledge a source, but copy it word for word, without using quotation marks, it remains unacceptable. Failure to acknowledge sources properly is sufficient cause for an outright fail.
**Direct quotation:** You may want to quote an author or case directly because of the apt way the author formulates something. Use quotation marks and refer to the source in footnotes.

The thoughts of others should not only be acknowledged, but should be "digested" and redrafted in your own words. You must think about their ideas (the information), integrate them into your own argument and express them in your own words. But still acknowledge the source of your thoughts.

Try to focus on **primary sources**. If you discuss a case, rely on the case itself, in the first place, rather than on remarks by commentators. If you rely on a statutory provision, refer to the statute itself. If you rely on a philosopher's views (eg Dworkin) refer to his own works, rather than those of commentators or critics.

It is impossible to give a firm indication about how many sources you should consult. As far as possible, all available material should be consulted. Do not refer to one or two sources alone. The bibliography should at least indicate a familiarity with the most important sources on a topic.

**Consult the following publications for a complete list of accepted abbreviations used in both national and international journals:**


- Do your information searches early in the year, so that you are left with enough time to find references, make photocopies and request inter-library loans.
- Always write down the full reference of any source. Take note of the requirements mentioned below.

**7.2 Steps to follow when searching for information**

Make an appointment with your relevant information specialist at the library.

- Cora Badenhorst is responsible for Legal hermeneutics, Mercantile law (including Transnational insolvency law), Labour law, Arbitration and Dispute Resolution, and Sports law.
- Tina Rossouw is responsible for Legal History, Comparative law and Legal philosophy, as well as Public law (including Constitutional, International, Administrative and Media law).
- Shirley Schröder is responsible for Private law and Procedural law.
- Leana Viljoen is responsible for Criminal law and Media law.
These persons may assist you how to search for all the relevant sources. The research methodology involves some or all of the following, depending on your topic:

7.2.1 Step one: Get a general overview

- Look at LAWSA to get a general overview and background knowledge of your topic. LAWSA may be described as a summary of current knowledge of aspects of the law. It is kept up to date by monthly loose-leaf volumes, which are consolidated yearly in what is known as Current Law.

Similar encyclopaediae are available for other legal systems. The library also has *Halsbury's Laws of England* and the American *Corpus Juris Secundum*.

7.2.2 Step two: Find and collect information in primary sources of law

- Search for any relevant legislation. This may be a statute of parliament, or the subordinate legislation of provinces or the by-laws of local authorities. To find the applicable statute of parliament use *Juta's Statutes of South Africa*. Always begin with the index. Use the chronological table of statutes if you have the number and year of an act, but not the name. Use the alphabetical subject index if you have the name, but not the number or year of the act. There is also an alphabetical subject index to the latest regulations. It is better to use *Jutastat*, the online database, if you have no idea if there is any legislation on a certain topic. *Jutastat* also has an index to the Government Gazettes. *Sabinet* (an online database) also has an index to the Government Gazettes.

- Search on *Jutastat* (an online fulltext database) for relevant case law, or go to the printed indexes and noter-ups of the law reports.

- Treaties and appropriate international documentation.

Make sure that the case you have found is still applicable. Consult the noter-up or annotations section of the printed indexes to the law reports to find out if the case has been overturned or criticised.

7.2.3 Step three: Find and collect information in secondary sources

- Search on *ISAP (Index to South African Periodicals)* for references to South African journal articles. This is available on Sabinet (an online database). Search under English keywords. Find the references to legal journals, not to the more popular journals such as *Drum* magazine, or *Fairlady*.

- Search on a variety of international databases, to obtain references to overseas journal articles. *Austrom*, an Australian database is available through Cd-menu. *ABI World, Index to Canadian Legal literature, Index to Foreign Legal periodicals, Index to Legal periodicals, Index to United Nations documents*
and publications and Legaltrac (an American database), are available on the internet, through the law libraries homepage, at the following address: 
<http://www.up.ac.za/asservices/ais/law/lawdtbonline.htm>
The Australian legal research library, Canada statute service, Canadian Encyclopedic Digest, Current law statutes (English legislation), Dominion law reports, and Current Legal Service (English database) are available on compact disk in the library.

- Search the library catalogue (UPExplore) for books on your topic. Unless you know the exact title use the keywords and subject option. If you are looking for South African Law Commission reports, search under keywords if you know the title. If you do not know the title ask the librarian on duty for the annual report of the South African Law Commission. There you will find the different projects, their status and title.

- Look at Tyds@tuks on the home page of the library, to see if there are any online journals that might contain information on your topic. The site is <http://www.up.ac.za/asservices/ais/TYDSTUKS/subjects/sublaw.htm>

Having obtained references to sources, you need to get hold of the actual journal articles or books. To do this, you need to first determine what is available in the university library. Consult the online catalogue at the following address: <http://explore.up.ac.za>

If you are looking for a journal, search under journal title, otherwise search under title or keywords.

The books and journals that are not available in the library are obtainable from other libraries in South Africa, by means of interlibrary loans, which take time - you must allow enough time for this.

7.2.4 Step four: Search on the Internet

Lastly, you can consult the Internet by going directly to sites of interest or by making use of a search engine. Look at the interesting links on the law libraries home page, at the following address: <http://www.up.ac.za/asservices/ais/law/law.htm>

Lists of search engines are available at the following address: <http://www.up.ac.za/Excite>.

If you are looking for South African information, search on the South African search engines, such as Aardvark, Ananzi, Mbendi, South Africa Online, Streetwise and SA Government. If you are looking for more general information, from any country, but especially from the USA, make use of an international search engine, such as Yahoo, Northern Light, Excite, Altavista, Hotbot and Google.

Meta-search engines search other search engines’ databases. Metacrawler searches the following: Altavista, Excite, Infoseek, Lycos, Thuderstone, Webcrawler and Yahoo. MetaFind and Dogpile are also meta-search engines.
Be aware that not all documents or sources found on the Web are equally reliable or valuable. On many campuses every student may publish a webpage. Articles appearing in academic journals or encyclopaedias are written by experts in their subject field, and these articles are refereed and edited before being published. This does not happen on the Internet. One needs to develop critical thinking skills and to evaluate the quality and depth of the information found.

The following criteria can be used to evaluate the information:

- **Content and scope:** What is covered and in what detail? The scope should reflect the purpose of the site and its intended audience. Are there any key omissions?
- **Authority and bias:** Check if the site is officially mandated by an organisation or institution. Is it an individual's page or is it institutionally supported? Checking the publisher of the information may be helpful. Sites that have edu, or ac in their URL (Uniform Resource Locator) are academic sites. They often contain good information. A site with gov in its URL is a government site and it also often has good information. A site with com in its URL is usually selling something, be it a product or a point of view. Org indicates that the address refers to the web site of an organisation.
- **Accuracy:** How do you judge it? You may find a rich source of information on your topic by following links from a page you judge to contain accurate information. Not many institutional sites provide links to badly constructed web sites with inaccurate information. Look for the author's credentials and a source list.
- **Timeliness:** With the exception of archival information, all sources should be checked for currency. Many web sites post the date and sometimes the time of the last modification to the information. Look for link maintenance. Do the hyperlinks work?
- **Evaluate the permanence of the site.** Look out for explicit statements of temporary or changing location of servers or files. Note the date and time that a site is visited if you plan to use the information in your research component.
- **Value-added features** such as search tools, help information, summaries or abstracts, rating or evaluations.
- **Presentation and organisation.**
SEARCH TIPS FOR INTERNET-SEARCHING:
- Check your spelling. Search for both the American and English spelling.
- Use plurals or other word endings if the search engine cannot truncate the word.
- Avoid searching the Internet at peak times. Early morning searching should give you the quickest reaction time.
- Take a few minutes to read the help screens. This will save you time in the long run. Be on the look-out for default settings, is it case sensitive?
- Use a number of search engines using the same keywords.
- Check online help or frequently asked questions.

8. STRUCTURE: A "GOLDEN THREAD"

Structure your thoughts clearly. Use sub-headings in chapters.

Your topic should ideally contain a question (even if only by implication). This question is introduced in the first chapter (introduction) where its relevance is discussed. The chapters that follow should all be clearly linked to the initial question. If you write about the "duty of HIV positive medical care givers to reveal their HIV status", you may have a comparative chapter. However, the value of such a chapter is very limited if you do not link it clearly to the question posed, and to the conclusion. In other words, each chapter must be linked so that your research component is held together by a central idea or "golden thread". Tie all the "threads" together in a concise, but not too brief, conclusion.

9. STYLE

9.1 General

The first rule of style is consistency. You may use any one of a number of styles, as long as you do so consistently. We give some guidelines in this manual. You may also consult law journals or textbooks.

Keep your own style file. Make notes of the style you follow to remind you and to ensure that you are consistent.

A few recommendations follow, by way of example:

- Do not use capital letters unnecessarily (such as, court, state, government)
- In the text use "article" and "section"; in footnotes "art" and "sec"
- Judgment not judgement
- No full stop after abbreviations, no full stop after p or para in footnotes
- NGOs (without apostrophe); 1990s (without apostrophe)
- Dates: 5 February 2001 or 5-02-2001
- “...” or italics, not both
- foreign words, journal names, books and titles of reports in italics
- text must be justified; footnotes justified, first line of footnote indented, rest not indented
- Act 11 of 1999, not Act No 11 of 1999
- After colon (:) capital letters
- List items - connect with;
- Full stops after all footnotes (even very short ones)
- *id* (always italicized)

**Also take note of the following:**

- Quotations of fifty or more words should be indented left and right, without quotation marks. Quotation marks within a block quotation should appear as they do in the original.
- Quotations of forty-nine or fewer words should be enclosed in quotation marks, but not otherwise set off from the rest of the text.
- Alterations: When a letter in a quotation must be changed from upper to lower case, or vice versa, enclose it in brackets. Substituted words or letters and other inserted material should also be bracketed. Eg "[P]ublic confidence in the [adversary] system [depend[s upon] full disclosure of all the facts]."
- Significant mistakes in the original should be followed by "(sic)" and otherwise left as they appear in the original: "This list of statutes are (sic) necessarily incomplete".
- Omission of a word or words is generally indicated by the insertion of a square bracket. Eg "The very integrity of the judicial system… depend[s] on full disclosure of all the facts".

**9.2 Language**

Keep your language clear and easily understandable. Do not try to impress your supervisor (or fellow students) with how “academic” you can write (or how “learned” you are). Write short sentences. Avoid formalistic, Latin and archaic words. Trim excess words and write plainly.

For example: For "In the event of an accident occurring", write "If an accident happens". Avoid eg "said", "aforesaid", "in lieu of"; use "in place of" or "instead of".

Consult dictionaries and thesauruses (eg Tools- Language- Thesaurus on MS Word).

**9.3 Footnotes**

Footnotes are used in the following instances:

- To refer to a source from which information or quotations have been borrowed (source reference). This is done for the sake of accuracy and possible crosschecking by the reader and for scientific integrity, which necessitates the acknowledgement of sources.

There are several important considerations to take into account:
• Any fact or idea which is not common knowledge, or which is not the author’s own work, is borrowed from a secondary source. This source has to be acknowledged.

• No reference may be made to sources that you have not personally consulted.

• Incorrect quotations or those of dubious authority detract from a research component.

• The very fact that a quotation appears in a research component implies that the student identifies with it. If this is not the case, indicate it clearly.

• Give definitions or explain terminology. It is often necessary to refer to places elsewhere in the same text where statements are explained or supplemented (cross-reference). This is done in order to save time and space and to sustain the flow of the argument.

• Give translations of quotations in foreign languages.

• Criticise other authors or protect the author against criticism.

Footnotes should be numbered. Footnotes should be used with discretion. Long notes should be avoided.

After every statement using information gathered from another source, a footnote must be added. Insert a footnote after the full stop or other punctuation mark of the particular sentence or paragraph. Microsoft Word does this automatically. Just click on "insert" and then on "footnote". For example:

There is a series of cases in South Africa in which the father of a minor applied for and was granted an interdict. 69

The footnote must refer to the particular source from which the statement is taken. Use the abbreviated form if it is a journal title or book, since a complete reference is given in the bibliography or list of sources consulted at the end of the work. However, when referring to cases for the first time, always give the full reference.

69 L v H 1992 (2) SA 594 (E), Meyer v Van Niekerk 1976 (1) SA 252 (T).

9.3.1 Footnote referring to a book

Abbreviate the information in the footnote, since the particulars of the book appear in the bibliography at the end of the research component. Enough particulars must however be provided to distinguish a publication from other publications by the same author. This is done by adding the date of publication after the surname:


If you should subsequently refer to the same book, but to a different page, your footnote will look like the following:

The solution suggested by De Wet and Yeats is that the “klaarblyklike en verstandige benadering is natuurlik dat die verweerder op 16 November in mora ex re verval”, want ‘n dag vir prestasie kan ook stilswyend bepaal word.\footnote{De Wet (1964) 111.}

If the book has no author/many authors, but an editor, the editor is used as the filing element. The footnote will look like this:\footnote{Kraus JS & Van der Wait SD (eds) (2000) 41. (Editors, published in 2000, page 41) }

\subsection*{9.3.2 Footnote referring to a journal}

If possible, give the \textit{abbreviated} form of the title of the journal in the footnote. In the bibliography the full title of the journal must be given. Include a list of abbreviations used at the end of the research component.

Swanson ascribed the absence of a court to a “jealous guarding of state sovereignty”.\footnote{(1991) 12 \textit{NY Sch Jnl of Intl and Comp Law} 307 at 330.}

\begin{itemize}
\item First reference to article in text\footnote{De Vos (1999) 20 \textit{SALJ} 216.}
\item Second reference to same article, same page, following \textit{directly} on the first one.\footnote{\textit{Ibid.}}
\item Following references to same article, but different page\footnote{De Vos (1999) 20 \textit{SALJ} 216 at 222.}
\end{itemize}

“At best lesbians and gays are tolerated.”\footnote{Morgan (1995) 20 \textit{Melbourne University L R} 204}

The \textbf{bibliography} reads:

\begin{itemize}
\end{itemize}

If your next footnote (following \textit{directly} on the above) refers \textit{exactly} to the same reference, you need only use \textit{ibid}, or “as above” in your footnote.
9.3.3 Footnote of a case

“There is a series of cases in South Africa in which the father of a minor applied for and was granted an interdict”. 69

69 L v H 1992 (2) SA (E); Meyer v Van Niekerk 1976 (1) 252 (T).

The bibliography says:
L v H 1992 (2) SA 594 (E)
Meyer v Van Niekerk 1976 (1) SA 252 (T)

If further on in your research component you again refer to the Meyer case, you do not have to again give the full details. For example:

23 Meyer supra n69.
   or
23 Meyer above n69.

9.3.4 Abbreviations commonly used in footnotes

**supra**: above eg 2 HOLDSWORTH, supra note 10, at 6.
**infra**: below
**cf (confer)**: compare
**ch**: chapter
**contra**: to refer to a contrary view
**ed.**: edition
**et seq (et sequens)**: and the following
**hereinafter**: for authority that is too cumbersome to cite with *supra*, a special shortened form may be established. Eg "Proposed Amendments to the ... [hereinafter Hearings] (testimony of Prof. Wayne LaFave).

**Ibid (ibidem)**: the same
**id**: used when citing to the immediately preceding authority. eg See id at 980
**loc cit (loco citato)**: in the place quoted
**n (or fn)**: footnote
**op cit (opera citato)**: in the book previously mentioned
**par**: paragraph
**s**: section
**vide**: see
**et al**: and others
9.4 *De Jure* editorial style

**Footnotes**

Footnotes start with a capital letter and end with a full stop.

Footnotes are not used in notes, discussions of recent case law or book reviews. All references are integrated (in brackets) in the text itself.

Abbreviations have to be used in footnotes, whenever possible.

Where multiple sources are referred to in one footnote, they have to be separated by semi-colons and preferably chronologically ordered.

Individual footnotes have to be presented flowingly; the text should not be divided into paragraphs.

**Titles, Headings and Authors**

Headings of articles and notes must be as short as possible.

Lowercase is used in the main headings of articles.

Headings of notes are presented in the same way.

Headings of discussions of recent case law are presented as follows:

*Metiso v Road Accident Fund 2001 3 SA 1142 (T)*

*Customary law adoption, the action of dependents and the best interests of the child*

**(Sub)sections and Numbering**

Sections and subsections of articles are numbered in the following way:

```
1 Introduction
2 Application of Comparative Method to Aspects of Session
2 1 Introduction
2 2 1 Historical Background
2 2 1 1 Roman law position. The position during
```

Sections and subsections of notes and discussions of recent case law are numbered and presented as follows:

```
1 Introduction
2 Different Interpretations of the Term "Inherent Job Requirement"
2 1 An Expansive Interpretation
```

Other hierarchical orders that have no effect on the structure of the text is presented as follows:
Where this hierarchy is not represented by using paragraphing but flowingly, (a), (b), (c), (i), (ii), et cetera, has to be placed within brackets.

3.4 The initial letter of all words in subheadings is in uppercase except in the case of articles’ main headings and conjunctive words.

4 Referring to Case Law, Books, Dissertations, Journals, Newspapers, Legislation and Old Sources

4.1 Case Law

4.1.1 Reference to case law is made as follows: *Lindsey City Council v Marshall* 1936 2 All ER 1076 (HL); *Wessels v Hugo* 1985 4 SA 262 (O) 268J-269A. Full stops, colons, and brackets are not used when referring to year and volume numbers. Where dates are strictly speaking not used for identifying purposes, brackets are inserted, for example *R v Marais* (1888) 6 SC 367; *R v Jordan* (1956) 40 Cr App R 152 157-158. “NO” “and Others” are obsolete as well as “on”, “on page” before the page number. Subsequent references: *Wessels v Hugo supra*, the *Marais* case/decision.

4.1.2 The English references for pre-1947 cases are used, for example CPD, EDL and TPD and not KPA, ODPA and TPA. Regarding post-1947 case law, reference to the division of the high court is made in the language that the article is written in.

4.2 Books, Dissertations and Theses

4.2.1 Books are referred to in the following way: Van Oven *Leerboek van Romeinsch Privaatrecht* (1948) 92; Coetzee in Van Jaarsveld ao *Suid-Afrikaanse Handelsreg* 2 (1988) 1223. Subsequent references: Van Oven 96; Coetzee 305.

4.2.2 Reference to *LAWSA* is made as follows: Rabie *LAWSA* (ed Joubert) 6 (1981) par 117. Subsequent references: Rabie *LAWSA* 6 par 118.

4.2.3 Dissertations and theses are referred to as follows: Viljoen *Realisation of Human Rights in Africa through Inter-Governmental Institutions* (LLD dissertation 1997 UP) 77. It is not necessary to state whether the dissertation has been published or not. Subsequent references: Viljoen 77.

4.2.4 If subsequent editions were rewritten in its entirety, the original author’s name can be included as part of the title where the work is
generally known by that name De Wet and Van Wyk De Wet and Yeats Die Suid-Afrikaanse Kontraktereg en Handelsreg (1978). If a subsequent compiler has not rewritten the work in its entirety, the names of the compiler and original author are cited as co-authors, for example Hunt and Milton South African Criminal Law and Procedure 2 (1997).

No initials of authors, full stops and commas and “on” and “on page” are used for referring to books, dissertations and theses except if the initials are needed for identification, for example, where co-authors share a surname.

Editions of books are not mentioned, except if more than one edition were published during a specific year or if the date of publication cannot be ascertained. Where a reference to edition is made, it is done as follows: sixth edition (text); 3rd ed (footnotes). No brackets are used.

Journals

Articles and notes in journals are referred to as follows: Snyman “Die misdaad sameswering” 1984 SASK 3; Thomas “The Rental Housing Act” 2000 De Jure 235. In subsequent references the title is omitted.

When reference is made to a discussion of case law or a book, the name or the book that is discussed is omitted, except if the discussion has been given a title. If not, reference is made to the author, year, name of journal as well as the page number(s).

Therefore, no initials of authors, full stops and commas and “on” or “on page” are used when referring to articles, notes, case law discussions and book reviews.

Only the accepted abbreviations of journal names may be used. When referring to foreign journals, the abbreviation must be preceded by the full title of the journal, for example, Baumann “Schuld und Verantwortung” 1962 Juristenzeitung (JZ) 41. Subsequent references: Baumann 1962 JZ 42.

The volume and number of the journal are omitted, for example, 1971 THRHR 12 and not 1971 (34 1) THRHR 12. Where page numbers do not run consecutively, the number or month in which it is published must be included, for example 1972 1 Codicillus 36 of May Codicillus 36.

Articles or notes in books, in Festschriften or honorary publications, for example, are referred to as follows: Van Rooyen “Wederregtelikheid en poging” in EM Hamman-Gedenkbundel (ed Joubert) (1984) 165. Subsequent references: Van Rooyen EM Hamman-Gedenkbundel 168.
Newspapers

Reference to an article in a newspaper is made as follows: *Mail and Guardian* (2002-01-15) 12.

Reference to the *Government Gazette* or its abbreviation (*GG*) is made as follows: Government’s notice (within the text) or GN R 1671 in *Government Gazette* (text) or *GG* (footnote) 10378 of 1986-08-08.

Legislation

Foreign legislation and its abbreviations are printed in italics.

An act is referred to as follows: the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000. All references to acts are in lowercase. Refrain form using commas or “No”.

Subsections of acts are referred to as follows: section 2(1)(a) in the text, s 36bis(3)(a) in the footnotes. Articles and paragraphs, for example, the *NBW* and the *BGB* are referred to as section 3 11 20a3 *NBW* (text); par 20602 *BGB* (footnote).

Old Sources

Where a set convention stipulates how reference is handled, this method should be used, for example *D* 9 2 5 3; *I* 2 1 31; *C* 10 15; *Nov* 134 9; De Groot 3 32 7; Voet 47 1 2; Groenewegen *De Leg Abr* 4 10; Van Leeuwen *RHR* 2 5 1; Van der Linden *Koopmans Handboek* 1 7 2; Van der Keessel *Praelectiones ad Gr* 2 4 38; Van Bynkershoek *Obs Tum* 303; Pauw *Obs Tum Nov* 128; Schorer *ad G* 3 27 6; Vinnius *ad I* 2 1 39.

In other instances, an old source must be made precisely identifiable by the reference.

Quotations and Quotation Marks

Quotes must be used sparingly.

Quotes must be precise, that is, italics, uppercase and punctuation must be duplicated with precision. No changes to quotes are rendered during the editorial process.

If a quote comprises of a sentence in its entirety or if a full sentence is quoted after the use of a colon, the full stop is inserted at the end of the sentence before the closing quotation mark. If the last part of the sentence consists of a quote, the full stop is inserted after the quotation mark. If a comma follows a quote, the comma is inserted after the quotation mark. Examples: The judge states on page 130: “This rule of thumb is a misconception.” The judge
therefore refers to the rule as a “rule of thumb”, and continues by saying that any “rule of thumb” should be used with great caution.

5 4 Double quotation marks should be used, except where a quotation within a quote is made.

5 5 Quotations shorter than three printed line are not indented.

5 6 Where a sentence or paragraph is not quoted in full, every omitted part, regardless of its length, are indicated by three dots.

5 7 Changes and insertions in quotes are indicated by means of block brackets, for example “[I]n…; “there [has to] …”

6 Italics

6 1 The following are printed in italics: titles of books, theses, the names of newspapers, magazines, court decisions and foreign legislation.

6 2 Words and phrases in other languages are in italics, except if they are quotes or fragments of quotes.

6 3 Italics within quotes have to be duplicated.

6 4 Use italics to add emphasise sparingly.

7 Capitals and Punctuation

7 1 Capital letters must be used sparingly. Examples of where they are used are the following: South Africa, Republic, Companies Act, and Roman law.

7 2 Lowercase is used, for example, in the following circumstances: registrar, administrator, minister of the interior, legislator, supreme court of appeal, judge president, bar, law commission, parliament, state, department of trade and industry, provincial division of the high court.

7 3 The same policy applies in contributions written in Afrikaans.

7 4 Lowercase is used after a semicolon and uppercase after a colon, given that a complete sentence follows.

7 5 The initial letter of all references to books, theses, dissertations, articles, notes and the names of journals, newspapers and legislation is uppercase, except German, where only nouns are uppercase.

8 Brackets

8 1 Footnotes are not used in notes, discussions of case law and book reviews. Text that would otherwise have been assigned to the footnote position is
inserted between brackets, for example Snyman (*Criminal Law* (1986) 259-260); *S v Swanepoel* (1985 1 SA 576 (A)).

8 2 If a new sentence or more than one new sentence occurs within brackets, the last full stop must be inserted at the end of the last sentence within the brackets. For example: (See Snyman 126, for a critique of De Wet’s viewpoint.)

8 3 If the text within the brackets is only authority and not a full sentence, a full stop is not inserted before the brackets. The fragment in the bracket starts in lowercase and the full stop is inserted outside of the bracket. For example: This statement is correct (see Van der Westhuizen 624; Joubert 136).

9 **Abbreviations**

9 1 Abbreviations are not used in the text, except in notes, discussions of case law and book reviews where brackets perform the function of footnotes.

9 2 If possible, recognised abbreviations ought to be used.

9 3 Full stops are not used in abbreviations, regardless whether it’s a word or phrase that’s abbreviated.

9 4 Where reference is made to page numbers in footnotes and in brackets the abbreviation “p” is not used. The page number follows directly, for example, Joubert 603. In the text itself page is written out in full, for example, On page 306 De Villiers J states.

9 5 Numbers less than twenty are written out in full (this is also the case concerning positions) for example, four applicants but 64 detainees; second but 42nd, but chapter 4; R15. Ensuing numbers are not abbreviated for example 246-248 and not 246-8; dates are written as follows: yyyy-mm-dd, for example 1984-02-29.

9 6 It is acceptable to abbreviate codes within the text after writing it out earlier in the text, for example *BGB*; *StGB*; *NBW*; *CC*.

9 7 In contributions written in English, abbreviations like J, CJ and MR are used in the text as well as in the footnotes. It is placed after the judge’s name, for example, Innes CJ. In Afrikaans contributions words like regter, waarnemende regter and appèlregter are written out in full and abbreviated in footnotes.

9 8 Some of the abbreviations that are used:

AJ Acting Judge
10 **General**

10.1 Phrases like “learned”, “well read” and “respectfully” with regard to judges and their decisions are superfluous since respect is assumed.

10.2 Titles like “professor” and “doctor” are not used when referring to authors of books, theses, articles, notes, case discussions and book reviews.”

10. **BIBLIOGRAPHY**

At the end of the research component, you must give a list of sources that have been referred to. Books and journal articles are usually listed alphabetically according to the first component of the description (for example the author). There must also be a separate list for cases and one for legislation.

10.1 **Books**

The particulars of every entry must be stated in the following order:

- Author (surname and initials, use of capitals is a matter of choice, not separated by a comma)
- Year of publication (take note that dates of reprints are not given here, only the original date of publication; can be after the author, or after the publisher; just be consistent)
- Title (in italics) use of capitals is a matter of choice
- Edition (except the first edition)
- Place of publication (if no place of publication is given, write [S.1] in square brackets)
- Publisher (if no publisher is given, write [S.n] in square brackets)

**Examples:**

*Single-author books*

**Books with a subtitle**

**Books by two or three authors**
Where the names of more than one author appear in the work, the most prominent name is indicated first. If equal prominence is given to names, the name appearing first is used. Instead of using all three names, the first author's name may be used, together with "et al", in italics.


**Books where there is an editor, but not an author**
Here, the editor must be used as the filing element.

**Books authored by institutions, commissions, etc.**


**10.2 Government or official publications**

**Ordinances**
Cape of Good Hope (1951) *The municipal ordinance for the Province of the Cape of Good Hope, no. 19 of 1951* annotated by GH Randell and KC Bax. Durban: Butterworths

**Reports**

**Acts**
Atomic Energy Act, 92 of 1982

**A Government Gazette**

Province

Provincial gazette
North-West (South Africa) 1995. The determination of jurisdiction areas of transitional authorities : Pampierstad Local Council. North-West provincial gazette extraordinary 5086:58-59, March 1

A White paper published separately

A White paper published in a government gazette

Proceedings of conferences, and the like

A book forming part of a named series

An author's contribution in a book edited by someone else

Academic research components and theses
These publications are normally not published in the strict sense of the word.

10.3 Encyclopaedia titles
Description is given in the following sequence:
- Author(s)
- Year
- Title of the article
- Name of the encyclopaedia (in italics)
- Edition (except the first)
• Page(s) on which the article appears

A signed article

An article where the author is not mentioned
Phoenicia (1958) *The Encyclopaedia Americana*, vol 6, 28 (File under title or use anon)

10.4 Journal articles

Reference is as follows:


This stands for 2000, the date of publication, volume 117, page 51. Leave the number of the journal out (eg 117.2), unless this is essential for finding the article, for example where each consecutive number of the same volume starts from page one. The article title is placed in quotation marks (" "); the journal title in italics.

Newspaper articles are treated in the same manner as journal articles.


10.5 The internet

Internet sources can be very transient in nature and therefore citation to Internet sources is being discouraged unless the materials are unavailable in printed form or are difficult to obtain in their original form.

The following information should be given:
• Name of author (if any)
• Title or top-level heading of the material being cited
• Uniform Resource Locator (URL)
• For electronic journals or publications, the actual date of publication should be given
• The date of access

"Sierra Leone rebels violating Peace Accord"

*Report of the Secretary-General on the Establishment of the Special Court for Sierra Leone* UN Doc S/2000/915

10.6 Citing articles and abstracts from electronic databases

The basic retrieval statement for CD-ROM databases is as follows:
Retrieved from [source] database ([name of database], CD-ROM, [release date], [item no. -- if applicable])

The basic retrieval statement for on-line databases is:
Retrieved [month, day, year] from [source] on-line database ([name of database], [item no. -- if applicable])

The basic retrieval statement for databases accessed via the Web is:
Retrieved [month day, year] from [source] database ([name of database], [item no. -- if applicable]) on the World Wide Web: [URL]

Examples:


10.7 Case citations

2 Searle 15 (Oldest of the reports, from 1828-1910, bears the names of the reporters, such as Menzies)
1910 TPD 42 (Pre-1947 law reports, according to province, such as GWL, TPD)
1991 (1) SA 1 (A) (South African Law Reports)
1995 (2) PH A23 (Prentice-Hall reports)
[1997] 1 All SA 1 (A) (All South African Reports, square brackets compulsory)
[1997] QB 558 (Queen's Bench case)
410 US 113 (1973) (Reference to the official United States Reports)
93 S Ct 705 (Reference to unofficial editions of US decisions, such as the Supreme Court Reporter)
35 LEd 2d 147 (Reference to unofficial Lawyers Edition, the second series, page 147)

11 SUBMISSION AND MARK ALLOCATION

In terms of university regulations, the research component must be submitted prior to the examinations in order to allow the candidate to sit for the examinations. (The lecturer must publish a date for submission.) The research component counts 25% of
the final mark for the specific subject and a minimum of 50% is required for both the research component as well as the examination to pass the particular subject.
BIBLIOGRAPHY


Kleyn D & Viljoen F (1998) *Beginner’s guide for law students* Kenwyn: Juta


Van der Walt EJ (1999) *Quoting sources* Potchefstroom: Potchefstroom Universiteit vir Christelike Hoër Onderwys (Scientific Skills Series)


A feminist perspective on reform of the African human rights system

Rachel Murray
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1 Introduction

There have been concerns expressed about the manner in which the rights of women are dealt with in international human rights law. It is argued that women's rights are human rights and that they should be mainstreamed in the general human rights instruments. On this basis, some argue that to consider them in separate instruments and therefore to segregate them, is not appropriate. They argue that documents such as the Draft Protocol on Women's Rights detract from the principle that human rights treaties, such as the African Charter on Human and Peoples’ Rights (African Charter or Charter), should be for all. On the other hand, it is claimed, a certain amount of attention focused specifically on women's rights is necessary as women were excluded from all…

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2 This is due to go before an experts meeting of the OAU in 2001 before being adopted by Council of Ministers and Assembly of Heads of State and Government in 2002.
ANNEXURE “B”
(Excerpt from note)

Misuse of the Internet at the Workplace

1 Introduction

Five female employees are dismissed for misuse of e-mail at the workplace. One is dismissed on the ground of abusing her employer's e-mail policy by distributing religious and motivational material and the other four are dismissed for sending out pornographic material on the first day of spring, in the form of a bouquet of penises. This is only one example of the numerous sensational incidents that have been reported of late in the media relating to the misuse of e-mail and the internet at the workplace (Herman “Misbruik jou Personeel Internet en E-pos?” Finansies en Tegniek 2000-6-23 30, Business Editor “Cyber Loafing new Employee Problem” Eastern Province Herald 2000-10-9 6, Ord “Could you be a Cyber Loafer?” Daily News 2000-10-12 10, Anstey “Women fired for e-mailing ‘porn’” Sunday Times 2001-01-21 25, Swanepoel and Van der Westhuizen “Kuberpret kan Werkgewers Miljoene Kos” Beeld 2001-01-25 13, Rickard and Anstey “’Naughty e-mail now a hot legal Issue” Sunday Times 2001-01-28 30).

The purpose of this contribution is to review the relevant legal principles regarding the use of the internet at the workplace and to discuss the first three case that were heard by the Commission for Conciliation, Mediation and Arbitration (hereafter “the CCMA”) in this regard.

2 The Legal Framework

2.1 The Constitution

The Constitution Act 108 of 1996 embodies a number of provisions that could be relevant in any investigation regarding the misuse of the internet at the workplace. Section 23(1) protects every employee's broad right to fair labour practices. Apart from entrenching this broad principle, the constitutional text does not specify what actions will constitute fair or unfair labour practices. The Labour Relations Act 66 of 1995 (hereafter the LRA) provides details of the circumstances under which employees may be disciplined at the workplace and also lays down guidelines regarding procedures that have to be followed prior to the dismissal of an employee (see the discussion in par 2.2).

The second provision that may have a direct influence on any investigation in relation to the misuse of the Internet at the workplace is section 14 that protects every person's right to privacy. This right includes everyone's right not to have their person or home searched (s 14(a)), not to have their property searched (s 14(b)), not to have their possessions seized (s 14(c)), and the right to the privacy of their communications (s 14(d)). Section 14 may become relevant in the following scenarios: An employee may be accessing or sending material of a personal nature from the workplace on the employers’ computer. The communications could include personal correspondence such as love letters or explicit photographic material. Apart from personal information, certain communications could…

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ANNEXURE “C”
(Excerpt from discussion of recent case)

RECENT CASES
SEXUAL ORIENTATION AND THE RIGHT TO EQUALITY
IN THE SOUTH AFRICAN CONSTITUTION: NA TIONAL
COALITION FOR GAY AND LESBIAN EQUALITY &
ANOTHER v MINISTER OF JUSTICE & OTHERS

1 Introduction
The equality provision in South Africa's Constitution includes a clear
prohibition of discrimination based on sexual orientation (s 9(3) of the Constitution of
the Republic of South Africa, Act 108 of 1996), making South Africa the first country
in the world which explicitly protects gay men and lesbians in its justiciable Bill of
Rights. Its inclusion represents a major political victory for gay men and lesbians who
were subjected to severe forms of discrimination, ridicule, marginalization and
persecution during the apartheid era. (See generally Edwin Cameron ‘
“Unapprehended Felons”: Gays and Lesbians and the Law in South Africa’ in Mark
Gevisser & Edwin Cameron (eds) Defiant Desire: Gay and Lesbian Lives in South
Africa (1994) 89; Glen Retief ‘Keeping Sodom Out of the Lagger: The Policing of
Sexual Minorities in South Africa’ in Defiant Desire (supra) 99; and Edwin Cameron
SALJ 450.) However, the inclusion of the sexual orientation clause in the Constitution
by no means guarantees the complete legal emancipation of gay men and lesbians in
post-apartheid South Africa. The way in which South African courts - particularly the
Constitutional Court – interpret the sexual orientation provision in the Constitution
will be crucial in determining the scope and content of the legal protection afforded to
gay men and lesbians.

Surprisingly, it took more than four years front the inception of the 1993
Constitution before the Constitutional Court first lead the opportunity to consider an
equality complaint based on a claim of sexual orientation discrimination, although
several cases had come before the various High Courts in South Africa. (See S v K
1997 (9) BCLR 1283 (C), Langemaat v Minister of Safety and Security 1998 (4)
BCLR 444 (T), National Coalition for Gay and Lesbian Equality & others v Minister
of Justice & others 1998 (6) BCLR 726 (W) and National Coalition for Gay and
Lesbian Equality v Minister of Home Affairs 1999 (3) BCLR 280 (C.).) In the case of
National Coalition Gay and Lesbian Equality & another v Minister of Justice and
others 1999 (1) SA 6 (CC); 1998 (12) BCLR 1517, the Constitutional Court not only
struck down the impugned legislation and common law, but also did so unanimously
in a judgment that clearly enunciated the court’s view on homosexuality and sexual
identity in the light of the equality guarantee in the Constitution. The judgment is
therefore of particular importance because it has the potential to act as a guiding light
for who aim to use the Constitution as a tool in the struggle for the legal emancipation
of gay men and lesbians.

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