MODULE 1
General Research Planning
Unit 1: Research Model
Unit 2: Research Tools
Unit 3: Research Designs

UNIT 1 RESEARCH MODEL

CONTENTS

1.0 INTRODUCTION
Legal research, like any other research, invariably involves collection and analysis of facts and their interpretation to ascertain or refute existing information or add new information thereto. Inquiry into a legal fact, thus, either supplements the existing theory/information or supplants it with new one.

2.0 OBJECTIVES
At the end of this introductory unit, students should be able to:
- describe different models of legal research
- explain objectives and significance of different models of legal research
- explain emerging trends in legal research
- describe weaknesses and strengths of inter-disciplinary legal research.

3.0 MAIN CONTENT
3.1 Models of Legal Research

A legal researcher, depending upon focal theme and research goals of his inquiry, resorts to research tools and techniques and follows a paradigm that differs from others. A few prominent paradigms or models of legal research, in brief, along with their utility, are outlined here below.

3.1.1 Evolutive and Evaluative

A legal research gets the label of 'evolutive model of legal research' when a researcher endeavours to find out how a legal fact, rule, concept, an institution or the legal system itself come to be what it is today. He attempts to trace the origin and development of a legal fact, [such as rule against self-incrimination or double jeopardy], or a legal institution, [like the institution of an ombudsman or a judicial institution, say the Federal Supreme Court of Ethiopia]. Such legal research can also be undertaken even to trace the development of a given law, like the development of constitutional law of a country.

The legal researcher can do this by either of the two ways. First, he may prepare a calendar of the successive formal baptismal dates of the legal fact in question Secondly, he may trace the evolution of a legal fact or an institution by locating various supportive and causal phenomena, events or factors that were responsible for shaping the growth of a legal fact or an institution under study.

Evaluative model of legal research aims at expounding the logical coherence of concepts, elements, facts and interests of legal phenomenon individually, of their relationship inter se and their relationship with the concepts, elements, facts and interests outside the legal system for determining and defining the terms and presuppositions used in law. The research is to ascertain the nature, scope and source of law in order to explain what law is, and also to spell out several propositions used in law.

3.1.2 Identificatory and Impact Studies

Almost every law, other than procedural law, as mentioned earlier, has certain 'legislative goal(s)' to attain, and 'legislative targets' to handle through 'law'. A legal researcher, through an identificatory legal research, seeks to ascertain the 'beneficiaries' of a particular law or legal provision. His interest is to find out the persons (or group of persons) for whose benefit the identified law (or legal fact) is made to exist. To be

more precise, he seeks to answer the question-which are the parties expected or intended to be benefited by a given rule, concept, institution or the system of law.

Identification of the parties intended to be benefited by a particular law or legal fact help to ascertain the legislative intent or object of that law or legal fact and to seek and clarify the justification for its existence. It also helps to ascertain the legal framework and strategy employed in it to help the 'intended' beneficiaries. It further helps to ascertain whether the intended beneficiaries are actually being benefited or not. In a way, an identificatory legal research serves to assess the utility of the law or a legal fact under inquiry. Such a model of legal research, for example, can be successfully used by undertaking research into the law relating domestic violence, child abuse or harmful traditional practices.

Impact of law studies endeavour to assess effectiveness or actual result of an established or a newly conceived law, legal provision, rule or institution. Here legal researcher gives emphasis not on contents of the substantive law under inquiry but on its ultimate impact on the society or its legislative target. His focus is not merely on the law as is found in the Codes, Statutes, judicial pronouncements and treatises but on its operation or 'law in action'. He intends to study and understand the effects of the working of law and legal institutions on the life of the individuals and society at a particular time and place. The focus of inquiry, thus, is the 'law in action' and on the behavioural and attitudinal changes of the people effected by law. He intends to record and explain how a particular legal fact works within a given social setting. The investigation, incidentally, involves identification of non-legal factors or forces that affect the legal fact(s) in bringing about the intended changes in the society and their interaction with legal facts.
The significance of such a legal research can be realized if one recalls that law operates as one of the social sub-systems and it has some social object behind it.

3.1.3 Projective and Predictive

A legal researcher generally uses projective model of legal research when he wants to anticipate and highlight effects of a draft legislation or a proposed legal measure. Such a legal research is mainly attitudinal, intended to anticipate the probable response in terms of rejection or

acceptance of a proposed measure. Its purpose is to identify the parties who stand for and against the proposed law or legal measure and to locate determinant variables and situations for peoples' apathy or sympathy. Predictive legal studies are used when a legal researcher intends to anticipate and highlight possible misuse of the proposed law or legal measure. Such a legal research helps the lawmakers to minimize or to do away with the possible undesirable consequences of the proposed measure. Predictive legal studies are generally carried out by Law Commissions, Parliamentary Committees or Joint Select Committees, invariably, before a proposed legal measure takes formal shape and becomes operational.

3.1.4 Collative

When a legal researcher prepares a digest of laws, statutory provisions, judicial pronouncements or annotated bibliography on a particular topic or subject, that research gets the label of collative legal research. Here the legal researcher collects all the relevant materials, with or without its summary, on a given topic and arranges/classifies them in a logical manner. Digests of cases and statutes, like Halsbury's Statutes of England and Yearly Digests (of cases published by All India Reporter, India), published by well-known law publishers fall in this category of legal research.

It would be a mistake to undermine this type of legal research as inferior to other types of legal research. Properly collated legal material, which is reliable, reasonably extensive and classified logically, is as much contribution to legal writing as any other material. A well-collated material will serve a useful purpose by reducing the labour of researchers. It offers reliable versions of the law. Collative material has its own value and collative research is an end in itself.

3.1.5 Historical

In historical legal research, a legal researcher intends to trace historical antecedents of a legal fact. Tracing history of a particular legal fact becomes significant for its following attributes. First, it becomes useful, rather warranted, when the present statute or statutory provision has raised meaningful queries and it becomes necessary to explore the circumstances in which the present position came out. In such circumstances, it gives a significant clue to the reasons why it (the

particular law or legal provision) was framed in the form in which now it appears. It helps to remove certain doubts about the legal fact. Secondly, it supplies the researcher the reasons that justify the present position. It would also exhibit that a particular existing provision, fully justifiable at the time when it was introduced, is no longer so justifiable because the reasons and the circumstances that justified its inclusion are no longer valid or exist. Thirdly, it discloses the alternatives, different than the currently adopted ones, which were considered and rejected by the lawmakers and reasons therefor. Such a revelation not only exhibits the sound and valid reasons for rejection of an alternative but also discloses the comparative positive and negative attributes of different alternatives that were thought of (or rejected) and of that are adopted in the legislation under inquiry. In this way, it initiates or contributes in legal reforms. Fourthly, history of a legal fact, when traced deeply and arranged logically, shows the gradual evolution of the law or legal fact on certain lines, and thereby of general trend of its change. It shows the way the legal fact is evolved.98 Fifthly, historical background of law enables law-makers to know the principles used or followed by Legislature from home or abroad in earlier identical law(s) as very few pieces of legislation are original in the sense of being pure innovations of a skilled draftsman. In majority of the cases, Legislature consults and adapts earlier statutes or makes use of principles laid down or proposed in decided cases. Sixthly, historical background of law or a statutory provision helps judiciary (particularly in Common Law jurisdictions) in interpreting law in a more rational and pragmatic way as historical research helps it to know the historical and political spirit in which that particular law (or a legal provision) came into existence and for what reasons. Laws are not made in a vacuum. They are passed in order to meet some needs of society. Seventhly, a law may have relevant international background when it is enacted to give effect to the treaty obligations accepted by the government towards other countries. The practical importance of an understanding and knowledge of that wider political context is evidenced by the increasing willingness of the courts to take account of relevant international instruments when construing the legislation.

3.1.6 Comparative

A comparative legal research carries significance as Legislators, it has been said, imitate each other and try to learn from each other's experience. Schlesinger has observed:

> *Legal practitioners and scholars in ever-increasing members have intuitively discovered a simple but significant fact: that when confronted with the same problem, decision-makers ---, though independent of each other and widely separated by time and space, more often than not will respond in a similar way.*

However, there are two schools of thought about comparative legal research. The first school perceives comparative legal research as a mere process, a method of approaching legal problems. While the second school treats it as a dogmatic science as it aims to study and collate the law of different countries in a systematic order, with the object of placing stress upon the resemblances and differences in the rules adopted by various countries, to solve the many problems coming out of the organized society. The former school has four shades of views. A comparative legal research, according to it, is undertaken (i) to initiate acquaintance with a foreign law, (ii) to animate and modernize the study of private law of a country, (iii) to prepare an internal law by knowing the way in which the legislature from other jurisdictions has carried out reforms, and (iv) to study law 'common to all'. In spite of the two different schools of thought, it is, however, undeniable that comparative legal research serves as a good means for introducing new ideas into a legal system.

SELF-ASSESSMENT EXERCISE

1. What is difference between evolutive and historical legal research?
2. Write a note on historical model of legal research and discuss its significance.

3.2 Current Trends in Legal Research

3.2.1 Mono-disciplinary legal research

Legal research, depending upon its objectives and the nature of inquiry, may be mono-disciplinary or trans-disciplinary. Traditionally, legal scholars have been engaged in analysing legal concepts, doctrines,

statutes, or statutory provisions in the light of judicial pronouncements. Based on such an analysis, they have been coming up with some tentative explanations of law and principles deducible therefrom and from judicial pronouncements thereon, predicting future course of development of law, hinting at the problems that may likely arise in future and suggesting a way out. Such a research obviously is confined to the discipline of 'law', as the researchers, treating law as a closed discipline, need not go beyond the discipline of law or look for material lying beyond 'law'. This type of legal research is characterized as 'mono-disciplinary legal research' as the discipline involved is only one, i.e. 'law'. All doctrinal legal researches obviously fall in this category.

However, mono-disciplinary legal research, in spite of its potentials to contribute in bringing clarity, consistency and certainty in law and initiating reforms in law, has its own limitations. It is addressed to a limited audience-the members of the profession –judges and lawyers and it is meant to assist them in the discharge of their day-to-day professional tasks. It does not fully reflect the social dimensions of law. Therefore, the feedback it supplies to the policy-makers is merely partial.

3.2.2 Trans-disciplinary legal research

During the recent past, however, some new trends, away from mono-disciplinary legal research, have emerged in the domain of law. An inquiry into a legal fact transgresses the discipline of 'law' and touches upon the disciplines 'related' to law. Such a legal research, to distinguish it from the former one, may be labelled as trans-disciplinary legal research.

It is worth to recall here that law does not operate in a vacuum. It operates in a complex social setting. It has certain roles to play in a society. Each legal rule, in ultimate analysis, intends to apply and govern a factual situation of life. All disciplines that are connected with this factual situation of life, therefore, have nexus with 'law'. History, philosophy, sociology, psychology, religion, to mention a few are thus related with 'law'. Law's nexus and affinity with the disciplines related with law have made some legal scholars to extend their range of investigation beyond 'law' and to enter into other 'related' disciplines, for bringing out the wider implications of legal rules and for

recommending more meaningful policies and rules. Such a legal research, as stated earlier, takes the label of 'trans-disciplinary legal research' as the researcher transgresses the discipline of 'law' to see other dimensions of the legal fact under investigation. He goes 'beyond law' and peeps into other disciplines, with which 'law' is proximately connected. Socio-legal research generally falls into the category of trans-disciplinary legal research.

Trans-disciplinary legal research, compared to mono-disciplinary legal research, has more potential for contributing to the advancement of knowledge and development of law as it depicts comparatively holistic picture of the legal fact under inquiry. However, trans-disciplinary legal research may be quasi-disciplinary, multi-disciplinary, or inter-disciplinary in nature.

Quasi-disciplinary legal research is a research undertaken by the same scholar of law in different perspectives that transgress the discipline of law. For example, legal research undertaken by a scholar of law, well conversant with religious literature, delves into personal laws and highlights niceties of legal issues associated therewith, or a writer on taxation laws makes use of his learning in accountancy or public finance to explain in depth the legal rules, falls in this category. A multi-disciplinary legal research, unlike quasi-disciplinary research, involves a study of a common problem by scholars of several disciplines, each studying it from his own specialized angle. For example, scholars of law, sociology, or political science may individually study the issues pertaining to gender equality or an affirmative action. Inter-disciplinary legal research is a research endeavour undertaken jointly by scholars belonging to different disciplines.
However, the first and the last sub-types of trans-disciplinary research, namely, quasi-disciplinary and inter-disciplinary, have close bearing on legal research. Hence, they do deserve our more attention.

Quasi-disciplinary legal research enables a legal scholar to offer more realistic and meaningful policy and reform-oriented proposals in the area of his inquiry. However, contribution of a quasi-disciplinary legal research depends upon the depth of scholarship of the researcher in the field of law as well as in the fields allied to law.

Further, it is bridled with the difficulty of making a 'right choice' of 'allied' disciplines. A legal researcher will be confronted with more than one option. Nevertheless, the problem will be non-existent for a legal researcher who has set out his research objectives in unambiguous terms, formulated his research problem in a precise manner, and clearly fixed dimensions of his inquiry. This will help him to be on the 'right' path in his research journey.

3.2.3 Inter-disciplinary legal research

With a view to overcoming some of the limitations of quasi-disciplinary legal research, scholars from different disciplines may join hands in making an inquiry into a legal fact. This type of legal research, as stated earlier, is known as inter-disciplinary legal research. Inter-disciplinary legal research, thus, is the research done by a legal scholar in close association with scholars from other disciplines related with law, such as sociology, anthropology, political science, history, philosophy, psychology, and economics. It is a sort of concerted or cooperative effort by several scholars belonging to different disciplines to integrate their disciplinary insights, and to apply integrated insight to the study of legal problems. An inter-disciplinary legal research, compared to mono-disciplinary and quasi-disciplinary legal research, leads to better insight into the legal fact under investigation. It also results into offering more sound and sophisticated solutions to problems than can be suggested with the aid of mono-disciplinary and quasi-disciplinary legal research. However, inter-disciplinary legal research suffers from some operational difficulties. A few prominent among them are:

1. The question regarding what and how many disciplines should be combined in the research endeavour may sometimes become difficult to resolve. It requires a lot of planning and decision-making.
2. Priorities and interests of research in different disciplines vary; therefore, the lack of consensus upon the 'issues to be resolved' may create operational difficulties in a cooperative research.
3. Sometimes it becomes difficult to develop 'communication' between the research partners belonging to different disciplines. Each discipline has its own concepts. It may take considerable time for the participants to understand different 'language' (i.e. content expression) spoken by them. For example, the languages of law and social sciences differ. The language of law is

essentially directive and normative, whereas the language of sociology is descriptive, revealing or explanatory. It may even be an inhibiting barrier between a legal scholar and a non-lawyer to join hands for a cooperative legal research.

4. Every discipline has its own research tools, techniques and methods. They vary from discipline to discipline. Therefore, sometimes integration of these tools, methods and techniques in an inter-disciplinary legal research becomes difficult.
5. A sort of 'tension' among the participants may arise as they proceed with research. Each participant, consciously or unconsciously, may be tempted to see that his discipline dominates the other in the research endeavour.
6. A cooperative legal research requires compatible habits of the scholars involved therein and a working atmosphere that puts everyone at ease. Lack of either of these two may deter individual researchers from taking an initiative in the research. The hitherto tradition of mono-disciplinary research has inculcated some peculiar habits in the researchers, which they might find difficult to deviate from.

Scholars who have joined hands to undertake and carry out a co-operative legal research have to be cautious that none of the above-mentioned limitations surfaces in their concerted efforts.

SELF-ASSESSMENT EXERCISE 2

1. Write a note on mono-disciplinary, trans-disciplinary and inter-disciplinary legal research highlighting their characteristics and weaknesses. Which one, in your opinion, is more preferable and for what reasons?
2. What is the significance of knowing different models of legal research

4.0 CONCLUSION

Legal research, like any other research, invariably involves collection and analysis of facts and their interpretation to ascertain or refute existing information or add new information thereto. Inquiry into a legal fact, thus, either supplements the existing theory/information or supplants it with new one.

However, a legal researcher, depending upon focal theme and research goals of his inquiry, resorts to research tools and techniques and follows a paradigm that differs from others.

5.0 SUMMARY

In this unit, you have learnt how to do the following:

- describe different models of legal research
- explain objectives and significance of different models of legal research
- explain emerging trends in legal research
- describe weaknesses and strengths of inter-disciplinary legal research

6.0 TUTOR-MARKED ASSIGNMENT

1. What is difference between evolutive and historical legal research?
2. Write a note on historical model of legal research and discuss its significance.
3. What is significance and utility of identificatory legal research? In what way does it contribute to the development of law?
4. Write a note on mono-disciplinary, trans-disciplinary and inter-disciplinary legal research highlighting their characteristics and weaknesses. Which one, in your opinion, is more preferable and for what reasons?
5. What is the significance of knowing different models of legal research?

7.0 REFERENCES/FURTHER READING

Chegwe Emeke Nelson, Legal Research Methodology and Project Writing (Ekpoma-Nigeria: Ambrose Alli University Press, 2016).

E.P. Ellinger & K.J. Keith, Legal Research: *Techniques and Ideas*, (1979-1980).

B.S. Murthy, *Socio-legal Research-Hurdles and Pitfalls*, in S.K. Verma & M. Afzal Wani (eds), *Legal Research and Methodology* (ILI, 2nd edn, 2001) 61.

Ernest M. Jones, *Some Current Trends in Legal Research*, in S.K. Verma & M. Afzal

Wani (eds), *Legal Research and Methodology* (ILI, 2nd edn, 2001) 24.

Julius Stone, *Social Dimensions of Law and Justice* (Stanford University Press, Stanford, 1966) 9&73.

UNIT 2 RESEARCH TOOLS

CONTENTS

1.0 INTRODUCTION

Analysis based on social science research methods has revolutionized the legal system. The effective and efficient administration of justice will require a penetrating study of social phenomenon using research tools and techniques. The heart of any research is collections of data. In this unit, the basic tools of research will be discussed.

2.0 OBJECTIVES

At the end of this introductory unit, students should be able know the basic tools for legal research.

3.0 MAIN CONTENT

3.1 Basic Tools

There are several ways of collecting empirical data for social-legal research. The required information can be collected from the identified respondents in a face-to-face interaction by administrating them a set of pre-determined questions or through sketchy questions prepared by the respondent. These methods of data collection are known as '**interview**' and '**schedule**' respectively. The pre-determined questions can also be administered to the respondents indirectly through post, fax, emails or any other appropriate methods of communication. This method of data collection is known as '**questionnaire**'. A socio-legal researcher can also collect the required information by systematic 'observation' of a phenomenon, behaviour of his respondents or institutions that constitute focus of his study or by studying other existing records that reflect the phenomenon under his inquiry. The basic tools of data collection for a socio-legal research, thus, are: (i) **interview**, (ii) **questionnaire**, (iii)

schedule, (iv) **interview guide**, (v) **observation**, **participant** or **non-participant,** and (vi) **published or unpublished materials** (such as Census Reports, Reports of Governmental and/or Non-Governmental Agencies, and appropriate literature on sociology of law). The first four methods of data collection are 'primary sources' of empirical data as they are used in getting the required information 'directly' from the respondents. While the last one is 'secondary source' of information as the researcher collects the necessary information 'indirectly' from published and/or unpublished documents. Further, 'interview' and 'schedule' involve direct 'oral communication' between the information-giver (respondent) and the information-seeker (investigator), while 'questionnaire' involves 'written communication' between the researcher and his respondents. In 'observation', unlike in interview, schedule and questionnaire, the researcher uses his 'eyes', rather than ears, for collecting data. Hence, it is a 'visual method' of data collection.

Interview, a verbal technique of data collection, may be structured or unstructured. The former involves the use of a set of pre-determined questions and highly standardized technique of recording responses thereto. The latter, as opposed to the former, is characterized with flexibility of approach to questioning the respondents and lesser-standardized way of recording the responses. Interview is the most commonly used method of data collection in the study of human behaviour. It is regarded as 'a systematic method by which a person enters more or less imaginatively into the life of a comparative stranger'. It is used to either secure the information from the person who alone knows the subject or a particular matter. Interview is the most effective method of gaining information about a person's perceptions, beliefs, feelings, attitudes, opinions, motivations, anticipations or plans. It also enables the interviewer to further authenticate the information flowing from the respondent by observing his facial reactions and other gestures during his narration. However, interview, as a method of data collection, is an art. Not everybody can resort to it, unless he is trained in formulating questions, their administration and recording responses thereto. As further outlined here below by Cannell and Kahn in *The Collection of Data by Interviewing*, (eds), *Research Methods in the Behavioural Sciences* (1953), it has its own limitations:

> *One of the limitations of the interview is the involvement of the individual in the data he is reporting and the consequent likelihood of bias. Even if we assume the individual to be in possession of certain facts, he may withhold or distort them because to communicate them is threatening or in some manner destructive to his ego. Thus, extremely deviant opinions and behaviour, as well as highly personal data, have long been suspect when obtained by personal interviews---. Another limitation on the scope of the interview is the inability of the respondent to provide certain types of information ---. Memory bias is another factor which renders the respondent unable to provide accurate information.*

Questionnaire is that method of data collection in which a number of typed or printed pre-determined questions are used for collecting data. It is usually mailed to the respondents with a request to respond the questions in the space provided therefor and to send it back to the investigator. Like interview, questionnaire may be structured or unstructured. The questions may be open-ended, close-ended, mixed or pictorial. This method is quite popular and useful when information is to be sought from numerous respondents who are scattered in a vast area. Compared to interview, it works out to be cheaper and quicker. It also facilitates uniform tabulation. **Schedule** is referred to as a form filled in during a personal interview in which both the interviewer as well as the respondent are present. In this method, the investigator himself presents the questions to the respondent and records his response. **Questionnaire** and **schedule** have much in common. In both the forms of data collection, the wordings of the questions are the same for all the respondents.

However, at the same time there are two prominent differences between the two. First, questionnaire is usually mailed to the respondents for filling in their responses to the questions listed therein, whereas schedule is referred to a form filled in by the interviewer during his personal interview with the respondent. Secondly, questionnaire, due to its

impersonal nature, is rigid, whereas schedule, which like in interview allows the investigator to clarify questions, if they are not clear to the respondent, is more flexible.

There is yet another related tool of data collection, which is popularly known as **interview guide**. It contains only the topic or broad headings on which the questions are to be asked to the respondents. The researcher formulates questions on these topics on the spot and records the responses thereto. Interview guide is generally used in case of qualitative or in-depth interviews.

Observation, which involves a visual method of data collection, becomes a scientific method of data collection if it, in the context of subject-matter of inquiry, is planned systemically, recorded systematically, and is subjected to checks and controls on validity and reliability. Observation may be participant or non-participant. In the former, the investigator mingles with the respondents to observe and record a phenomenon. While in the latter, he observes and records a phenomenon from distance.

Published or unpublished documents/reports may also serve as useful sources of information requisite for a socio-legal research. However, the investigator needs to carefully scrutinize the information and to ensure the reliability and adequacy of the data before he uses the information in his inquiry.

4.0 CONCLUSION

The importance of the basic tools explained above cannot be over-emphasised. A researcher must pay close attention to them.

5.0 SUMMARY

In this unit, you have learnt about the basic tools for legal research.

6.0 TUTOR-MARKED ASSIGNMENT

1. Enumerate and explain different basic tools of doctrinal legal research.

7.0 REFERENCES/FURTHER READING

Cannell & Kahn, (1953) *The Collection of Data by Interviewing*. In Leon Festinger and Daniel Katz (Eds). *Research Methods in the Behavioural Sciences*. Amerind Publishing Co., New Delhi, 330-331.

Chegwe Emeke Nelson (2016). Legal Research Methodology and Project Writing. Ekpoma, Nigeria: Ambrose Alli University Press.

UNIT 3 RESEARCH DESIGNS

CONTENTS

1.0 INTRODUCTION

Once a research problem is formulated clearly enough, the researcher has to think of pursuing it. He has to think about the information that is needed, the way to gather it, and the manner in which it is analysed and interpreted. In other words, he has to work out the 'plan' and 'design' of his research.

The process of research design can be explained by an analogy of an architect designing a building. In 'designing' a building, the architect has to consider each decision that is required to be made in constructing the building. Bearing in mind the purpose for which the building is to be used, he has to consider various matters such as how large it will be, how many rooms it will have, how these rooms will be approached, what materials will be used and so on. He considers all these factors before the actual construction begins. He proceeds in this way because he wants a picture of the whole structure before starting construction of any part. This paper-picture helps to visualize clearly the difficulties and inconveniences that he and his assistants would face when the building is under construction and to devise the strategies to overcome them. On the basis of the sketch, he can effect corrections or modifications and make improvements before the actual construction starts. It is obvious that the building may be defective and cause a lot of inconveniences to its users and thus the very purpose for which it is to be constructed may be defeated if careful thought was not given to the matter at the 'designing' stage.

2.0 OBJECTIVES

At the end of this introductory unit, students should be able to:

- explain research design and considerations in designing it
- explain major steps followed in a research design
- explain the different types of research design and their utility
- explain the role of research design in a scientific investigation

3.0 MAIN CONTENT

The process of research design can be explained by an analogy of an architect designing a building. In 'designing' a building, the architect has to consider each decision that is required to be made in constructing the building. Bearing in mind the purpose for which the building is to be used, he has to consider various matters such as how large it will be, how many rooms it will have, how these rooms will be approached, what materials will be used and so on. He considers all these factors before the actual construction begins. He proceeds in this way because he wants a picture of the whole structure before starting construction of any part. This paper-picture helps to visualize clearly the difficulties and inconveniences that he and his assistants would face when the building is under construction and to devise the strategies to overcome them. On the basis of the sketch, he can effect corrections or modifications and make improvements before the actual construction starts. It is obvious that the building may be defective and cause a lot of inconveniences to its users and thus the very purpose for which it is to be constructed may be defeated if careful thought was not given to the matter at the 'designing' stage. This analogy is applicable with equal force to any research. A researcher has, therefore, to 'design' his research before he pursues it so that he can anticipate the problems that he may encounter during his research journey and can take appropriate precautions and measures to overcome them. Such a design will not only make his research journey less problematic but will also enhance the reliability of his research findings and thereby of its contribution to the existing knowledge. A researcher, like a building architect, has to take decision about certain aspects of his proposed research before he starts 'designing' his research. The major design decisions, which are required to be taken, are to be in reference to the following aspects:

1. What is the study about?

2. What is the purpose of the study and its scope?
3. What are the types of data required?
4. Where can the data needed data be found and what are their sources
5. What will be the place or area of the study?
6. What periods of time will the study include?
7. What time is approximately required for the study?
8. What amount of material or number of cases will be needed for the study?
9. What bases will be used for the selection of the required material /cases?
10. What techniques of data gathering will be adopted?
11. What type of sampling, if required, will be used?
12. How will the data be analysed?
13. How best can all these questions be decided upon and what should be make so that decisions the research purpose will be achieved with minimum expenditure of money, time and energy?

The consideration of these questions, which, in ultimate analysis, enters into making the decision regarding the what, where, when, how much, and by what means, constitutes research design. However, the decision relating to these questions must be based on convincing and pragmatic grounds. Keeping in view the fact that research is a systematic, scientific investigation of a fact, the design decisions must also be based on an accepted methodology.

Broadly speaking, research design refers to the visualization of the entire process of conducting research before its commencement. It is a planned sequence of the entire process involved in conducting a research study. It is a conceptual structure within which the research is to be conducted. Research design is the plan, structure and strategy of investigation conceived so as to obtain answers to research questions. The 'plan' includes everything the investigator will do from formulating the research problem or the hypothesis to the final analysis of the data and presenting his inferences. The 'structure' is the outline, the scheme, or the paradigm of the operation of the variables, while the 'strategy' includes the methods to be used to collect and analyse the data. However, the 'design' of a research study depends, to a great extent, on the particular purpose that the proposed research is intended to serve.

The purpose of research influences the design of study. Research design is closely linked to the investigator's objectives. Research designs, therefore, differ depending on the research purpose just as the plan of a building would depend upon the purpose for which it is intended to be used.

'A research design', against this backdrop, according to Claire Selltiz and others, 'is the arrangement of conditions for collection and analysis of data in a manner that aims to combine relevance to the research purpose with economy in procedure'. Research design, in this sense, tells the researcher what observations to make, how to make them and how to analyse the quantitative representation of the observations. It constitutes the blueprint for the collection, measurement and analysis of data. It, in a way, guides the investigator in the process of collecting, analysing and interpreting observations. It also tells him as to what types of statistical analysis to use. It is the logical and systematic planning and directing of a piece of research. 'Research design' is invented to enable the researcher to answer research questions as validly, objectively, accurately, and economically as possible. Based on the above explanation, one can say that research design possesses three important characteristics. First, it is a plan that specifies the sources and types of information relevant to the research problem. Secondly, it is a strategy specifying which approach will be used for gathering and analysing the data. Thirdly, it includes the time and cost budgets since most studies are done under these two constraints.

However, it is difficult, though not impossible, to prepare an ideal research design in social science as well as in socio-legal research for two prominent reasons. First, sometimes it may not be possible for a researcher to foresee 'everything' and 'visualize' all the contingencies in the beginning of the research. Secondly, he, in spite of his perfect or near perfection foreseeability, may encounter with some unforeseen factors or facts on the way of his research journey that need to be handled. A research design is only tentative in the sense that as the study progresses, new facts, new ideas and new conditions, which may necessitate a change in the original research plan may occur. The researcher has to amend his design to meet these and other similar contingencies. Thus, a research design can be flexible. Research design furnishes guidelines for investigative activity and not necessarily hard-

and-fast rules that must remain unbroken. A universal characteristic of any research design is flexibility. Nevertheless, he needs to translate the research design, with apt modifications, into a working procedure.

3.1 Major Contents of Research Design

The term 'research design', as mentioned earlier, refers to the entire process of planning and carrying out a research study. It involves the following major steps:

1. Identification and selection of the research problem.
2. Choice of a theoretical framework (conceptual model) for the research problem and its relationship with previous researches.
3. Formulation of the research problem or hypothesis, if any, to be tested, and specification of its objectives, its scope.
4. Design of experiment or inquiry.
5. Definition and measurement of variables.
6. Identification of the 'suitable population' for the study and of 'sampling' procedures.
7. Tools and techniques for gathering data.
8. Editing, coding and processing of data.
9. Analysis of data-selection and use of appropriate statistical procedures for summarizing data and for statistical inference.
10. Reporting-description of the research process; presentation, discussion and interpretation of data; generalization of research findings and their limitation; and suggestions for further research.

The broad outline of the design of a research study may be re-stated in the following main steps:

1. Formulation of the research problem.
2. Decision about suitable population for the study and setting down the sampling procedure.
3. Devising tools and techniques for gathering data.
4. Determination of the mode of administering the study.
5. Setting the arrangements for the editing, coding and processing of data.
6. Indicating the procedures and statistical indices for the analysis of data.
7. Deciding about the mode of presentation of the research report.

These steps can further be grouped into four major stages: (i) the planning stage, (ii) the design stage, (iii) the operational stage, and (iv) the completion stage. The planning stage includes the identification, selection and formulation of research problem as well as the formulation of hypothesis and its linkage with theory and existing literature. The design stage consists of drawing up the design of the experiment or inquiry, definition and measurement of variables, sampling procedures, tools and techniques of gathering data. The operational stage deals with the drawing of the finances and budgeting, recruitment and training of the staff, if necessary. The completion stage is concerned with analysis and interpretation of data.

Each of these steps of conducting research is a complex one and requires a separate discussion which is not attempted in this Unit. It must, however, be emphasized that several alternatives are possible at every step. Therefore, efficiency of a research design involves in selecting from among the several alternatives at every step, those procedures for the collection and analysis of data, which are most economical as well as most relevant for the purpose of research.

Nevertheless, it is important to list here below some essential considerations that should be taken into account by a researcher while developing each of the research design steps of, particularly a socio-legal problem.

1. ***Identification and selection of the research problem.***
   (i) Presents clear and brief statement of the problem with concepts defined where necessary.
   (ii) Shows that the problem is limited to bounds amenable treatment or test.
   (iii) Describes the background and significance of the problem with reference to one or more of the following criteria:
      (a) Is timely.
      (b) Fills research gap.
      (c) Permits generalization to broader principles of social interaction or general theory.
      (d) Sharpens the definition of an important concept or relationship.
      (e) Has many implications for a wide range of practical or theoretical problems.

(f) May create or improve an instrument for observing and analyzing data.
(g) Provides opportunity for gathering data.
(h) Provides possibility for a fruitful exploration of data with known techniques.

2. Theoretical Framework

(i) Clearly states the relationship of the problem to a theoretical framework.
(ii) Demonstrates the relationship of the problem to the previous research studies.
(iii) Presents alternate hypotheses considered feasible within the framework of the theory.

3. The Hypothesis

(i) Clearly states the hypothesis selected for test.
(ii) Indicates the significance of test hypothesis to the advancement of research and theory.
(iii) Identifies limitations, if any, of the hypothesis.
(iv) Defines concepts or variables (preferably in operational terms).
(a) Independent and dependent variables should be distinguished from each other.
(b) The scale upon which variables are to be measured (quantitative, semi-quantitative, or qualitative) should be specified.

4. Design of the experiment or inquiry and measurement of variables.

(i) Describes ideal design or designs with especial attention to the control of interfering variables.
(ii) Describes selected operational design.
(iii) Specifies statistical tests.

5. Sampling Procedure

(i) Specifies the population to which the hypothesis is relevant.

(ii) Explains determination of size and type of sample.

(iii) Specifies method(s) of drawing or selecting sample.

(iv) Estimates relative costs of the various sizes and types of samples.

6. Methods of Gathering Data

(i) Describe measures of quantitative variables showing reliability and validity

when these are known. Describe means of identifying qualitative variables.

(ii) Include the following in description of questionnaires or schedules, if these

are used,:

(a) Approximate number of questions to be asked to each respondent.

(b) Approximate time needed for interview.

(c) Preliminary testing of interview and results.

(iii) Include the following in description of interview procedure, if this is used,:

(a) Means of obtaining information, i.e. by direct interview, all or part by mail, telephone, e-chatting, or other means.

(b) Particular characteristics of interviewers must have or special training that must be given them.

7. Working Guide

(i) Prepare working guide with time and budget estimates.

(a) Planning.

(b) Drawing sample.

(c) Preparing observational materials.

(d) Collecting data.

(e) Processing data.

(f) Preparing final report.

8. Analysis of Results

(i) Specify method of analysis.
(a) Use of tables, sorter, computer, etc.
(b) Use of graphic techniques

9. Interpretation of Results

(i) Discusses how conclusions will be fed back into theory.

10. Publication or Reporting Plans

(i) Write these according to Department and Graduate School requirements.

(ii) Select for journal publication the most significant aspects of the problem in
succinct form. Follow style and format specified by the journal to which the article will be submitted.

SELF-ASSESSMENT EXERCISE

1. What decisions a researcher needs to take before designing his research?
2. Why is a research design closely linked with the purpose of the research? Explain.

3.2 Types of research design

It is important to recall that the purposes of research influence contents of the design of study. Research design is closely linked to an investigator's objectives. Invariably, every research begins with a question or a problem of some sort. Researches are undertaken for various purposes. These purposes, as discussed elsewhere, may be classified under the following four major categories:

1. To gain familiarity with a phenomenon or to gain insight into it with a view to formulate the problem precisely. [Studies having this purpose are known generally as Exploratory of Formulative studies.]
2. To describe accurately a given phenomenon and to determine associations between different dimensions of the phenomenon. [Studies characterized by such aims are known generally as Descriptive studies.]
3. To determine the frequency with which something occurs or with which it is associated or see causal relationships between its different dimensions. [Studies having this purpose are known as Diagnostic studies.]

4. To test a hypothesis suggesting a causal relationship between different variables. [Studies characterized by this purpose are called Experimental studies.]

Research designs, based on these purposes, take different structural forms as well as nomenclature. The research designs that are appropriate for the first, second, third and the fourth purposes indicated above are terminal: (i) exploratory or formulative, (ii) descriptive, (iii) diagnostic, and (iv) experimental or explanatory, respectively. Some of the distinctive features of these research designs are discussed in brief in the following paragraphs:

3.2.1 Exploratory or formulate research design

Generally, every research study is built upon the existing stock of our knowledge. The formulation of the problem, spelling out the objectives of the study and formulation of the hypothesis, if required, depend upon the existence of adequate knowledge. But occasionally a researcher may be confronted with a problem in a hitherto uncharted area without sufficient knowledge even to formulate his problem adequately. The researcher has little or no knowledge about the problem. He just wants to 'explore' it. His primary aim is to acquaint with the characteristics of research target. He intends to discover ideas and to have insight into the problem or situation under investigation. Research design in exploratory studies has to be flexible to provide opportunity for the consideration of different aspects of the problem or situation under study. Inbuilt flexibility in research design is needed because the research problem, broadly defined initially, is transformed into one with more precise meaning.

Generally, the important methods to conduct exploratory studies include (a) a review of the related literature, (b) a survey of people who have had practical experience of the broad problem with the problem to be studied, and (c) an analysis of 'insight-stimulating' cases or examples.
A careful review of literature helps the investigator to formulate his research problem precisely or to develop a workable hypothesis with precise meaning. A review of hypotheses stated in earlier works may also help him in identifying the thitherto-analysed concepts and theories and deciding utility of the thitherto formulated/tested hypotheses. It also enables the researcher to decide the possibility of any new hypotheses

from those concepts and hypotheses. A survey of experienced people and unstructured interactions with them will help the investigator to obtain insight into the problem under investigation and to get clues to the possible hypotheses. It gives him information about the effectiveness or otherwise of the thitherto used methods and procedures used for achieving specific goals. It can also provide information about the practical possibilities for doing different kinds of research. While the third method, i.e. analysis of 'insight-stimulating' cases, involves intensive study of selected instances of the phenomenon under investigation. It helps the researcher to gain information about the cases that exhibit sharp contrasts or have striking features. This diverse information helps him to have insight into the problem under study.
Most exploratory studies use one or more of these three methods. Whatever method is chosen, it must be used with flexibility so that many different facets of a problem may be considered as and when they arise and come to the notice of the researcher. But it is important to remember that exploratory studies merely lead to insights or hypotheses; they do not test them. An exploratory study must always be regarded as simply a first step; more carefully controlled studies are needed to test whether the hypotheses that emerge (from the exploratory study) have general applicability.

3.2.2 Descriptive and diagnostic research designs

A descriptive research study, as its name suggests, is concerned with describing the characteristics of a particular individual or a phenomenon. It is aimed at detailed description or measuring of the different aspects of a phenomenon, group or community. It is mainly a fact-finding study with adequate interpretation. Such a study, unlike exploratory study, presupposes prior knowledge of the problems to be investigated.

In descriptive studies, the researcher must be able to define clearly what he wants to measure and find adequate methods for measuring. In addition, he must be able to specify the subject is to be included in his 'population' of study and how he is going to collect evidence. In other words, in such a study, what is needed is a clear formulation of 'what' and 'who' is to be measured, and the techniques for valid and reliable measurements.

A diagnostic research is more directly concerned with causal relationships and with implications for action than a descriptive study. It is more concerned with the frequency with which something occurs or its association with something else. In fact, there is a very thin line of distinction between descriptive and diagnostic studies. A descriptive study is oriented towards finding out what is occurring while a diagnostic study is directed towards discovering not only what is occurring but also why it is occurring and what can be done. The former is about 'what is it?' while the latter is concerned with 'why is it?' A diagnostic study is more actively and explicitly guided by hypothesis than a descriptive study. They have a common element of emphasis on the specific characteristics of a given situation. From the point of view of research design, the descriptive as well as diagnostic research studies, in spite of a thin of distinction between them, share common requirements. The research design of a descriptive and diagnostic study, unlike that of an exploratory study, has to be rigid. It must address and focus on:

(1) Formulation of the objectives of the study- The first step in a descriptive as well as diagnostic study is to define, precisely the research problem and the research objectives. This enables him to perceive the required and relevant data.

(2) Designing the methods of data collection- After the research problem is formulated, it becomes necessary for the investigator to identify the methods by which the required data are to be obtained. The techniques of data collection must be carefully identified and indicated in the research design.

(3) Selecting the sample- The researcher must specify the methods of drawing sample from the identified 'population'.

(4) Collecting the data- In the design of his study he must specify the sources of the relevant and required information and the period to which such data are related.

(5) Processing and analysis of data- As the collected data need to be processed and analysed, the researcher must indicate coding and decoding of the collected data and methods of processing and analysing them.

(6) Reporting the findings- Finally, the investigator has to draw a broad outline of his research report for effective communication of his findings to his audience. The layout of the report needs to

be well planned so that all things relating to the research study may well be presented in simple and effective style.

3.2.3 Experimental or explanatory research design

Experimental studies deal with cause and effect problems. They are concerned with testing the causal hypotheses. However, testing of a causal hypothesis is a very complex matter. At least three kinds of evidence are needed to confirm that the given independent variable (the cause) produces the given dependent variable (the effect). First, several independent variables have their effect on a given dependent variable. Therefore, in order to test the effect of a given independent variable, it is necessary to hold constant the effect of other independent variables and to isolate the effect of the given variable.

Second, it is necessary to show that change in the given dependent variable did not take place before the change in the given independent variable, since the cause ought to precede or be simultaneous with the effect but it should not succeed the effect. Third, it is necessary to show that the change in the given independent variable has actually produced change in the given dependent variable; the greater the change in the independent variable the greater the change in the dependent variable.

These three kinds of evidence may be summarized as follows:

1. Ruling out the effect of other causal variables.
2. Causal time sequence between the changes in the independent and dependent variables.
3. Concomitant variation between the independent and the dependent variables.

A descriptive study which is designed to make observations about the reality as it exists can best provide evidence about concomitant variation. To procure the other two kinds of evidence, one has to make observation under controlled conditions. The procedures of making observation under controlled conditions constitute the experiment. The chief requirement of an experiment is to induce change in the given independent variable while holding constant the effect of the other independent variables.

There are different ways of conducting experiments. In the physical and natural sciences laboratories are used extensively for experimentation.

But laboratory experiments for studying human behaviour are ruled out in most cases for obvious reasons. However, the use of laboratories is not necessary condition for experimentation. What is important is the logic of making observation under controlled conditions. Utilising this logic, the social scientists have devised, among other methods, an experimental mechanism of using two groups of subjects, one termed the experimental group and the other, control group.

The subjects in the experimental and the control groups are so chosen that the two groups are similar, if not identical, with regard to the given independent and dependent variables as well as with regard to the various other variables which also exert their causal effect on upon the given dependent variable. Observations and measurements are made at two points of time. First, before the change is induced in the independent variable, the given independent and dependent variables are measured in both the groups. Then change is induced in the given independent variable only in the experimental group. After allowing sufficient time for the impact of the change to be felt on the given dependent variable, the given independent and dependent variables are measured in both the groups for the second time. According to the causal hypotheses, it is expected that at the second point of time there would be greater change in both the given independent and dependent variables in the experimental group as compared with their counterparts in the control group. Existence of such a difference would confirm the hypothesis.

It can be readily seen that the above experimental design is capable of generating simultaneously all the three kinds of evidence which are required for testing a causal hypothesis. The evidence ruling out the effect of other independent variables is secured by equating these variables in both the experimental and control groups, so that whatever effect they produce on the given dependent variable would be of the same order in both the groups. The evidence that the change in the dependent variable did not take place before the change in the given independent variable is ensured by measuring the variables twice-once before inducing the change in the independent variable and a second time after the inducement. The evidence about concomitant variation is obtained by comparing the relationship between the two variables in the two different settings of the experimental and the control groups before

and after the inducement of change in the given independent variable in the experimental group.

The experimental design of study poses special problems of equating the experimental and the control groups with regard to the variables to be controlled and of inducing change in the given independent variable, of which the investigator must be aware. As for securing control of the variables in the two groups there are different techniques such as randomization, equated frequency distribution and precision control or control by identical individual pair matching. The investigator should be able to judge as to which one or more of these techniques are appropriate for his study. The experimental design differs from the descriptive study design, among other respects, in two important ways, inasmuch as the groups studied need not be representative of their population and the variables under investigation are manipulated. Therefore, the term sample survey is not applied to the experimental study.

It has been pointed out that there are different ways of designing an experimental study subject to the adherence of the same logic of experiment. Even as regards the particular experimental mechanism described above, various adaptations and modifications are possible. for instance, although ordinarily observations are made twice in an experimental study-once before the change is introduced in the experimental variable, and a second time after the inducement of change sometimes the study is conducted after the change in the experimental variable has already taken place; but in the latter case the information about the earlier point of time is obtained from the existing records. The experimental study which is designed before the change in the experimental variable is termed the projected experimental design or 'before and after' study, while the latter type is named ex-post facto experimental design or 'after only' study.

Pre-planning of an experiment is of fundamental importance in conducting an experiment. As the experimenter is not required to be a passive spectator but an active manipulator of the situation, he must plan out things in advance and their minutest details in order to get the best results. Planning of an experiment consists of the following steps: (i) selection of problem; (ii) selection of setting; (iii) conduction of a pilot

study; (iv) formulation of a research design; (v) collection of data, and (vi) interpretation of results

3.3 Role of Research Design

Regardless of the type of research design selected by the researcher or the objectives hoped to achieved, a common function of research design is providing answers to various kinds of questions and to 'guiding' him in his research journey. A methodologically prepared research design may invariably lead to the following advantages:

1. It may result in the desired type of study with useful conclusions.
2. It may lead to reduced inaccuracy.
3. It may give optimum efficiency and reliability.
4. It may minimize the uncertainty, confusion and practical hazards associated with any research problem.
5. It may be helpful for the collection of research material, required data, and testing of hypothesis.
6. It may operate as a 'guide post' for giving research a 'right direction'.
7. It may minimize the wastage of time and beating around the bush.

To be more precise, a research design, regardless of its type, performs one or more of the following functions:

1. Research design provides the researcher with a blue print of the proposed research - A researcher, like a building-constructor having a blueprint of the proposed building, can easily foresee and overcome the possible obstacles if he has some kind of research plan to execute. Preparation of research design makes him pay attention to pertinent queries and take decision before beginning his research. For example, if he chooses to study people directly, some possible considerations might be: (i) a description of the target population about which he seeks information, (ii) the 'sampling methods' to be used to obtain 'elements' of sample and to decide the size of sample, (iii) the data collection procedures and techniques to be used to acquire the needed information, and (iv) the possible ways to analyse the collected data. These problems are given strong considerations in socio-legal research proposal.
2. Research design dictates boundaries of the research activity - Research design outlines boundaries of the proposed research

endeavour and enables the researcher to channel his energies in a specific direction. Without delineation of research boundaries and/or objectives, a researcher's activities may virtually be endless. The study-plan and structure enables the investigator to reach closer to the proposed research.

3. Research design enables the researcher to anticipate potential problems in the implementation of the study - As mentioned earlier, one of the processes of research is review of literature. Literature review, inter alia, enables the researcher: (i) to know about new or alternate approaches to the research problem, (ii) to acquire information concerning what can reasonably be expected to occur in his own investigation, and (iii) to have a critical review of the earlier work on the theme of his research so that he can seek some guidelines for improvement.
4. Research design enables the researcher to estimate the cost of his research, possible measurement of problems and optimal research assistance - It enables the researcher to estimate the approximate time and financial budget required to accomplish his proposed research.

SELF-ASSESSMENT EXERCISE 2

1. What are the different types of research design?
2. Discuss utility and limitations of different types of research design.
3. Enumerate and explain the different roles of a research design in a scientific inquiry.

4.0 CONCLUSION

Once a research problem is formulated clearly enough, the researcher has to think of pursuing it. He has to think about the information that is needed, the way to gather it, and the manner in which it is analysed and interpreted. In other words, he has to work out the 'plan' and 'design' of his research.

5.0 SUMMARY

In this unit, you have learnt how to:

- explain research design and considerations in designing it
- explain major steps followed in a research design
- explain the different types of research design and their utility

- explain the role of research design in a scientific investigation

6.0 TUTOR-MARKED ASSIGNMENT

1. What is meant by research design? Why is it important to prepare a research design?
2. What decisions a researcher needs to take before designing his research?
3. Discuss utility and limitations of different types of research design.
4. Is research design sacrosanct? Give reasons of your answer
5. Do you agree with the view that research design in exploratory studies has to be flexible while rigid in descriptive and diagnostic studies? Explain and give reasons for your answer.
6. What type of research design do you suggest for a descriptive study? Prepare a broad outline of such a research design.
7. Enumerate and explain the different roles of a research design in a scientific inquiry.

7.0 REFERENCES/FURTHER READING

Claire Selltiz, Marie Jahoda, *et. al*., *Research Methods in Social Relations* (Holt, Rinehart & Winston, New York, 1962) 50 *et seq.*

T.S. Wil*kinson & P.L. Bhandarkar,* Methodology and Techniques of Social Research (Himalaya Publishing House, Mumbai, 16th ed., Reprint 2005), chap 7: The Design of Research

C.R. Kothari, *Research Methodology: Methods and Techniques* (New Age International Publishers, New Delhi, 2nd ed. 2004, Reprint 2007), chap 3: Research Design.

Black and Champion, *Methods and Issues in Social Research* (1976) 75 *et seq.*

B.N. Ghosh, *Scientific Method and Social Research* (1984) 179 et seq
Delibert C. Millar, *Handbook of Research Design and Social Measurement* (1970).

Victor S. D'Souza, *Design of Study in Empirical Research,* in S.K. Verma & M. Afzal Wani (eds), *Legal Research and Methodology* (Indian Law Institute, New Delhi, 2nd edn, 2001) 309.

K.D. Gangrade, *Emperical Methods as Tools of Research*, in S.K. Verma & M. Afzal Wani (eds), *Legal Research and Methodology* (Indian Law Institute, New Delhi, 2nd ed. 2001) 273.

MODULE 2
WORK OUTLINE/PARTS OF A THESIS

UNIT 1
STRUCTURAL OUTLAY OF RESEARCH REPORT

CONTENTS

1.0 INTRODUCTION

Research without writing is of little purpose. Accordingly, the research report is considered a major component of the research task that remains incomplete till the report has been presented and/or written. There are, of course, other ways of communicating your research and its findings, most notably through oral presentation, but writing them up remains of paramount importance in most areas of research.

2.0 OBJECTIVES

In this unit, students should be able to know the structural outlay of a research report.

3.0 MAIN CONTENT

B.O. Oluikpe (*Thesis Writing: Form and Style, Onitsha)* has divided all research papers into three parts: preliminaries, text and references. M.U. Gasiokwu asserts that theses and dissertations should equally be divided in like manner as shown below:

3.1 Preliminaries

These include the following:

(a) Blank leaves

(b) Title Page
(c) Preface/Foreword
(d) Table of Contents
(e) List of Abbreviations (if any)
(f) List of Tables (if any)
(g) List of illustrations (if any)

3.2 Texts

The text of a research paper contains the following:

(a) Introduction
(b) Body of the paper with well-defined divisions and sub-divisions such as chapters and chapter division and sub-divisions, conclusion.

3.3 References

References in a research paper include:

(a) Appendix (if any)
(b) Bibliography
(c) Glossary (if any)
(d) Index (if any)

3.4 Title Page

This page indicates the title of the paper, the name of the author, the name of the institution and department, statement of purpose (thesis and dissertation), place and date.

The following are different samples of a title page:

(i). Sample Title Page

NAME OF INSTITUTION (Capital Letters)

Department

TITLE OF PAPER

A Thesis

Submitted in partial fulfilment
of the Requirement for the Degree
(Name of Degree)
By

Name of Student

Date

(ii). Alternative Form:

TITLE OF PAPER

By

Name of Student

Submitted in to the Faculty of Law
in partial fulfilment of requirement
for the degree…

Name of University

Date

3.5 Preface

The preface is a brief remark addressed to the reader to prepare his mind for the subject matter of research. It states the background purpose, scope and limitations of the work; it lists any abbreviations which may appear in the text, and acknowledges any assistance received from individuals, or institutions.

SELF-ASSESSMENT EXERCISE 1

Explain the significance of a structural outlay and narrate the various steps involved in writing such a report.

1. Describe, in brief, the layout of a research report, covering all relevant points.

3.6 Abstract vs. Concrete Language

'Concrete words', states Block, 'convey meaning more plainly than abstract words'.

Lawyers are unfortunately notorious for vague abstractions. That seems the easy way to write. They (Lawyers) argue that since the law itself contains so many abstractions they must use abstract words. Block contends that for that very reason, the lawyer needs to use concrete language to clarify the law.

Most law students perpetuate legal gobbledegook which the read in their case books and therefore believe that is the way lawyers ought to write. Substitution of clear concrete language in place of vague abstraction will produce writing that is better because it is precise, direct and cognate.

Here are some examples of the use of abstract language, followed by example of their concrete versions.

1. Abstract - A significant proportion of qualified persons are excluded from the judiciary because of the existing level of compensation.
   Concrete - Present salaries are to too low to attract qualified persons to the judiciary.
2. Abstract - The peroration of a judicial tribunal must ultimately arrive at some point of finality.
   Concrete - A judicial tribunal must eventually end it deliberations.
3. Abstract - Perception entails negation of economy.
   Concrete - Haste makes waste.
4. Abstract - It is only human to make occasional errors.
   Concrete - To err is human.
5. Abstract - The display of your entrance permit is mandatory.
   Concrete - Show your pass.

6. Abstract - A youth designated only as "Jack" sustained, incident to a loss of equilibrium, a fracture of the cranium.
   Concrete - Jack fell down, and broke his crown.
7. Abstract - Rodents, in the absence of their feline enemy, are prone to divert themselves.
   Concrete - When the cat is away, the mice will play.
8. Abstract - There is a problem of judicial discretion as to whether, to take cognizance of this case.
   Concrete - The court must decide whether to hear this case.
9. Abstract - This is no way to be construed as a negative appraisal of the intellectual community or of the current general condition of academia.
   Concrete - I am not criticizing the intellectual community or the state of academics.

3.7 Paragraphs and Punctuations

Paragraphs: Basic Principles of Organization

Paragraphs and paragraph structure in writings communicate meaning. Paragraphs are expected to have governing theme (a topic) and the first sentence in paragraph ought to state the theme. The remaining sentences in the paragraph elaborate on the topic. In long paragraphs the final sentence may recapitulate the theme or offer a conclusion.

Paragraphs are necessary for general reasons: (i) for logical divisions (for example, separation of issues or case analysis), (ii) for rhetorical purposes, and (iii) for visual analysis. These often overlap. In legal writing, paragraphing normally should reflect logical division.

Legal writing mostly consists of the development of an argument or analysis of an issue through logical steps. Those steps make up individual paragraph while argument as a whole makes up a block of paragraphs. Paragraph blocks are groups of paragraphs that together present a major point. They may consist of two or of a dozen or more paragraphs. They may fall under a single sub-heading, or several blocks may fall under the same sub-heading. A heading identifying the theme of the block is customary and helpful.

A paragraph block should begin with a paragraph introducing the theme or topic of the block. The following paragraphs then develop that topic. The paragraph block is thus frequently an expansion of the standard pattern: the standard topic sentence expanded into a paragraph, the supporting sentences into separate paragraphs, and the concluding sentence expanded into a concluding paragraph. This expansion allows for a more detailed discussion of substance without interminable paragraphs.

The legal writer may not need to plan such paragraph blocks in advance, he should however work consciously to link inner parts, that is, to tie paragraphs together. After a draft is completed, the writer should check to see if the paragraph pattern is intelligible. The writer should identify the paragraph blocks, check for leading theme, and check transitions between component paragraphs. Identifying transitional elements is part of the analytical task of the legal writer, such elements are essential for a reader's comprehension.

A legal writer must avoid excesses in paragraph length. The theme of a paragraph must be one that can be started, developed, and closed within a unit of writing long enough to hold interest but short enough to be read and understood as a unit. If a reader rereads a paragraph before he is able to grasp the theme, then the paragraph is too long. If a paragraph or series of paragraphs present a chopped-up theme, thee the paragraphs are too short. Any paragraph that is longer than half a standard 250-word page, should be considered long enough to be divided.

Writers are advised to use one or two-sentence paragraphs sparingly. Such single-sentence paragraphs lend emphasis to the content of the point being made. They should however be used sparingly for special effect. They may highlight a major transition, emphasize an important conclusion, or summarize a block of paragraphs.

In each paragraph, the most important ideas should appear in the first and last sentences. These sentences will usually be the more general statements, with more detailed ones in the middle of the paragraph. Because the first and last sentences are positions of greatest emphasis within a paragraph, they should not be cluttered with long citations as that would mean to distract from the point.

SELF-ASSESSMENT EXERCISE

1. What points will you keep in mind while preparing a research report in order to maintain accurate paragraphing and punctuation?

Punctuation and Mechanics

The subject-matter of this subheading will be dealt with in subsequent parts of this work. It is however intended in this section to dwell briefly on these matters because of their great importance in the proper understanding of legal writings.

Punctuation:

(a) Use of the Comma

1. A comma is used to separate two independent clauses joined by "and", "but," "or," "for," "nor," or "yet". The comma precedes the conjunction. e.g. "The plaintiff's car hit the news-stand, and the defendant failed to stop". The comma after news-stand signals a completed unit of thought. The reader is then prepared for a new subject in a new clause.
2. Use two commas to set off interruptions. Commas are used to enclose parenthetical, explanatory, or interruptive words, phrases, or clauses. These commas mark the boundaries of a phrase or clause.

   e.g. (i) A lawyer, with a stroke of pen, can save an estate from the IRS.

   (ii) The plaintiff's car hit the utility pole, according to witnesses, and thus caused a three-hour power outrage.

   (iii) Will you help us, at your convenience, by providing the policy number?
3. Use a comma with "which" but not with "that". The use of "that" signals a limiting function; in other words, it introduces a restriction of the preceding word or phrase.

   Restrictive: The judges will read the briefs that are well written. (Only the well-written briefs will be read.) The use of "which" signals a non-defining function; in other words, it does not restrict the preceding word or phrase.

Non-restrictive: The judges will read the briefs, which are well ‘written. (All the briefs will be read; all the briefs are well written).

Many writers erroneously use “which’ for defining and non-defining clauses. A comma must therefore be used to make the distinction clear. A comma preceding a “which clause signals a non-defining function. Absence of a comma signals that the clause is defining.

4. Do not use a comma to separate a long compound subject from its verbs. If the subject is so long that it needs a marker or boundary at the end, do not use the careless device of an incorrect comma Rewrite or rephrase the sentence. This fault is commonly kind in poorer legal prose.

   For example:

   The dicta in recent Supreme Court opinions and the explicit recognition of the courts authority by the lower courts, emphasize what was first developed in Uma v. Chidi. (This is confusing) (Now omit the comma and rewrite thus) The dicta in recent Supreme Court opinions emphasizes what first developed in Uma v. Chidi. The lower courts explicit recognition of the court’s authority has furthered that development.
5. Use a contrasting comma for emphasis. Use a comma to emphasize contrast or to add emphasis to a particular word, phrase, or clause. E.g. He sold non-existent property in Lagos, not in Abuja.
6. Use a comma to separate Dependent from Independent clauses. If the dependent clause by a comma. The comma may be omitted if the dependent clause follows the independent clause and is restrictive.
   (a) If an employee objects to a medical examination, the case must be considered individually.
   (b) A case must be considered individually if an employee objects to a medical examination.
7. Do not use a comma before “because”, unless “because” introduces a non-restrictive clause.

   Incorrect: This is contradictory to the common practice, because, according to the common practice, the title of ownership will not be transferred to the buyer until payment is completed.

Correct: This is contradictory to the common practice because, according to the common practice, the title of ownership will not be transferred to the buyer until payment is completed.

8. Use a comma to separate some adjectives. Coordinate adjectives are those that may be joined by "and": erratic, vague testimony ("erratic" and "vague" both modify "testimony"). Use no comma if the first adjective modifies the second adjective, that is, if "and" is not understood between them (thus, they are not coordinate):
   "A good looking man"
   "Illegal drug traffic"
   "Grey stripped cat" (if the stripes are grey, but
   "grey, stripped cat" (if the cat is grey and stripped).
9. Use a comma after parenthetical material. A common is used after the parenthesis, not before.
   Because the case was too old (1875), we omitted it.
10. Place commas with numbers. Use a comma with dates, addresses, place names, statistics, measurements, and the like to increase readability: January 18, 1980, (month and day, year,). On January 18, 1,000 entries were received.
    On 18 January 1980, we received your letter.

(b) Use of the Semicolon

1. Use a Semicolon to separate two sentences:
   (i). If joined without a connective:
   It was 8:00 P.M.; the road was dry
   (ii). If joined with a conjunctive adverb, such as "however", "therefore", "moreover", it was 8:00 p.m.; furthermore, the road was dry.
   (iii). If joined with other transitional expressions, such as 'in brief', "on the other hand": It was 8:00 p.m.; contrary to testimony, the road was dry.
   (iv). Do not use a semicolon if one sentence is incomplete (i.e. a fragment), as in these examples:
   (v). Because lawyers are expected to think and speak well, they are expected to write well; when in fact many of them don't. (Use a comma in place of semicolon since what follows the semicolon is a fragment.)
   (vi). Dr. Bola replied that the ASUU would not discuss it; and would not need to. (Use no punctuation.)

2. Use a Semicolon to Substitute for the Comma in a Complex Series. A semicolon should be substituted for a comma when internal punctuation obscures the main division of any series:

The witnesses we must locate are John Okoye, whose last address was Haliru Street, Jos; Nnamdi Okeke of Igbariam, Enugu; Robert Chukwudi, who moved to Ikeja, Lagos; and Elizabeth Chidi of Dibu, Port Harcourt.

3. Place a Semicolon Outside Quotation Marks.
   e.g. The witness replied, "I don't know" however, the record shows that she did know.

(c) Use of the Colon

1. Use a colon to introduce a list or an enumeration. A colon may be used instead of a comma:
   The plaintiff's legal position depends upon extracts from three decisions of the Supreme Court: Peters v. Davies, Falaye v. Dunmi and Federal Tax Commission v. F.C. Nigerian PLC.
2. Use a colon to indicate that something will follow. What follows will usually be an example, illustration, elaboration: In Peters V. Davies, the collective bargaining process was not used: a unilateral hiring procedure had already been set up by the Association.
3. Use a colon to introduce quotations or formal statements. The Court found that the activity was not permissible: "The ship owners have surrendered completely to the control of the Association, thus limiting the activities of both ship owners and seamen".
4. Use a colon to emphasize what follows.
   Not only is the report itself hearsay, but most 0f it second - and third-level hearsay: the statements numerous persons are summarized, quoted, or otherwise relied upon.
   When a complete sentence follows a colon, the capita letter at the beginning of the sentence is optional.
5. Place a colon outside quotation marks.
   No one has denied plaintiffs statement that "mortgage instruments should be comprehensible the court agrees, the defendant agrees, and the general public agrees.

(d) Use of Parentheses

1. Use parentheses to set off potentially ambiguous phrases.
   Sometimes parentheses are more reliable than commas for setting of phrases that are potentially ambiguous or that obscure the "mainline" of the sentence.
2. Use parentheses to enclose interruptions. Explanations, digressions, and other interruptions to the main thought of the sentence may be set off with parenthesis. E.g. the answer is "yes" and "no" (a lawyer-like response).

3. Use parentheses to enclose numbers and letters marking divisions in the main text. A deed of trust must: (1) be comprehensible to lay readers, (2) accurately reflect the requirements of the lender, and (3) clearly inform lay borrowers of their obligation.

(e) Use of the Hyphen

1. Use a hyphen with a compound adjective when necessary to prevent ambiguity, as in "first-class", "well-written", "well-timed", "year-long", "decision-making", "job-related", As shown in the example below, the problem is that one word may be read as the wrong part of speech.
   Confusing: When the government financed research in the maritime industry declines.... (Is the research government-financed, or does the government finance research?)
   With hyphen: -when the government-finance research in the maritime industry declines….
2. Use a hyphen to form compounds with numbers:
   Two-week trial
   Thirty-five year-old dcl id
   Five-year contract

(f) Use of a Dash

1. Use the Dash Sparingly
   The dash is the least defined mark of punctuation. It suggests a connection rather than describing it. The dash has connotations of stream-of-consciousness though and carries a conversational tone.
   The dash should be used in legal writing mainly to introduce a recapitulation. It may also be used strategically in an argument-for dramatic effect.

2. A dash is used to indicate a break, shift, or interruption.
   e.g., when law graduates begin to practice law-which for most lawyers means writing everyday under pressure-they should already know how to write well.

3. Use a dash to expand an idea. A dash is used to expand an idea when combined with repetition of a word or phrase. As a result of this accident, Peter sustained severe and lasting injuries- so severe that his foot may require amputation.

(g) Use of slash or virgule

1. The slash, though popular in legal writing, is always misused. It should not be used to mean "and". It means "or". It indicates an "either-or" situation, that is, a choice of alternatives.

Do not use slash for "and/or" if you mean both "and" and "or". It means one or the other, but not both. Do not use the slash for phrases like "public/private functions" if you mean both "public" and "private". It means "public" or "private", but not both. Use a slash to indicate alternatives: The car is available with a white/brown exterior and a black/beige interior.
The "will/shall" controversy is passed. Use a slash to stand for "per" in abbreviations (40 m/hr.).

(h) Use of Apostrophe

1. Use an apostrophe to reflect possession. Add apostrophe plus "s" or apostrophe alone.
   Woman's Everyone's
   Men's Justices'

   If a singular word ends in "s" and if an "s" would make it hard to pronounce, simply add an apostrophe. The apostrophe is usually added if the syllable is pronounced as in "goodness", but not in "for goodness sake". To show joint or individual possession in a series of nouns or pronouns, use the apostrophe in the following manner:

   Joint: "Williams, Green, and John's policy" (the policy of the group or firm) "James, Shannon, and Okeke's property" (their joint property).
   Individual: William's and Green's policies (each has a separate or policies)
   "James', Shannon's, and Okeke's properties" (separate properties)
   Do not use an apostrophe for possessives or personal pronouns: his, hers, theirs, ours, yours, its, whose.

2. Use "its" when you need the possessive form of "it". "Its" is a possessive, meaning "belonging to it". "It's" is the contraction of the two words "it is".
3. Use an apostrophe to indicate omission of letters
   It's (It is)
   They're (they're)
   Who's (who is)
4. Use an apostrophe for certain plurals. An apostrophe is used to make possessive of plurals ending in "s". If the plural ends in "s", add an apostrophe. If it does not, add "s".
   Labour Unions', Lawyers', Witnesses', Years', Johnson's.

Use "s" to form plurals of words used as words, of letters, and of numbers:

(a) How many "yea's" are there?
(b) The "7's" in the receipt are blurred.
(c) "Occur" has two "c's" but only one "r".

5. Use "s" with gerunds but not with participles
   Use "s" with gerunds (verbs converted to nouns ending in "ing").
   Use no "s" with participles (verbs converted to adjectives ending in "ing"). Decide which one to use according to what you want to emphasize, the word ending in "ing' or the noun preceding it.
   (a) The Judge's leaving the court provoked comment.
   (Here the gerund "leaving" is emphasized.)

   (b) The Judge leaving the court provoked comment.
   (Here the Judge is emphasized. "Leaving is a participle modifying the noun "Judge".)
   (c) The court's holding in Patner set an important precedent.
   (emphasis on gerund "holding")
   (d) The court holding in Patner set an important precedent
   (emphasis on court).

SELF-ASSESSMENT EXERCISE

1. Write short notes on restrictive and non-restrictive in the use of 'comma' in punctuation.

3.8 Quotations, Footnotes and References

3.8.1 Quotations

Quotes are passages repeated in another work. They are used for the following purposes:

1. To substantiate the ideas of the writer.
2. To reveal the views of other writers on the same topic.
3. To show the prevailing line of thought on given unresolved problem to which the writer seeks an answer.

Generally, they add interest to the text. Sources of quoted matter must be acknowledged. Quotations must be accurate, they must keep to the spelling and punctuation of the original (i.e., in case of verbatim quotations.)

Short quotations are placed in the body of text and enclosed in single quotation marks, example:

As Marx says, 'Law is the expression of the will of the ruling class'….

Long quotations of more than 100 words are separated from the text and indented at least 20mm. They are typed with single space and quotation marks are not used, as in:

> In the view of the court, the contingency that there may be factual issues underlying the question posed does not alter its character as a 'legal question as envisaged in Article 96 of the Charter. The reference in this provision to legal questions cannot be interpreted as opposing legal to factual issues. Normally, it enables a court to pronounce on legal questions, it must also be acquainted with, take into account, and if necessary, make findings as to the relevant factual issues. The limitation of the powers of the court contended for by the Government of South Africa has no basis in the Charter or the Statute.

Verse quotations less than two lines should be run as part of the text and should be punctuated with quotation marks. The lines should, however, be separated from each other by a slash.

(1.) Example:
'Only the stuttering rifles'
'Rapid rattle/can patter out
'Their hasty orisons'.

In the case of mistakes in the quoted material which could be blamed on the researcher, he should insert the word [sic] enclosed in square brackets after the mistake.

Quotations within quotation should be enclosed in double quotation marks.

Omissions in Quotations

When parts of the sentence are omitted, three spaced dots are used to indicate the omission.

E.g., 'The man dies…in the face of tyranny'.

If a whole sentence or the end of a sentence is omitted, four periods are used to indicate such omission. When the omission is as long as a paragraph, show this by inserting four periods, indented, as the paragraph would be.

Example: 'She is deprived of custody….
While section 3 of the Infant's Act…

At times, the writer may want to insert some words in the quotation. This is usually done for the purpose of clarification. Such inserted words are enclosed in square brackets.

Example: They [Lawyers] are guilty of perpetuating legal gobbledegook'.

Caution: When writing the rough draft there is no need to copy quotations from notes. The more often a quotation is transcribed the greater is the chance of making an error. The note can be pinned to the manuscript instead.

3.8.2 Footnotes

1. Footnotes are mostly used for the following purposes:80
   To indicate the source of information (including a non-bibliographical source).
   As earlier mentioned, students must acknowledge the source of all quoted matter, of facts that could be obtained from only one source, and of another writer's views or arguments. Proverbs or information which are available from a wide variety of sources do not need special acknowledgements.
2. To refer the reader to another part of the thesis or to another footnote.
3. To refer the reader to further sources of information on the subject under discussion.
4. To give information that clarifies something in the text of the thesis. This would include the explanation of foreign words and phrases.
5. To give the original version of material that has been translated in the text.
6. To present the other point of view on a subject which is a matter of minor controversy.
7. To make a minor point that would interfere with continuity if it were made in the text.
8. To elaborate upon or modify a point in the text.

Types of Footnotes

In finished thesis, these notes may appear at the end of the chapter or thesis or the bottom of each page. In the former case the numbering will have to be continuous, while in the latter it may begin anew on each page.

In most cases, notes are placed at the bottom of the relevant page so that the reader is saved the trouble of constantly referring to another part of the thesis.

Quotations in Footnotes

In footnotes, quotations should be as short as possible. Do not set off from the rest of the note. Enclose the source in brackets immediately preceded by the author's name or, alternatively, after the quotation.

Example:

31. H. Chand (Nigerian Constitutional Law, Modinagar, 1981, p.34) says that 'Nationality … may include persons who may not be citizens.'
32. H. Chand says that 'Nationality … may include persons who may not be citizens' (Nigerian Constitutional Law, Modinagar,1981, p34)

3.8.3 Referencing

There are several styles of referencing in the process of writing theses, essays and project works.

They include the Harvard system of referencing, the Modern Language Association style (MLA), the classic, etc. Whichever the student uses will depend on preference by his institution, department or establishment. Appendix I provide a citation guide for the legal researcher.

SELF-ASSESSMENT EXERCISE

1. Generally they add interest to the text. Sources of quoted matter must be acknowledged. Comment on the above using a passage or two of your own to show how long and short quotes are to be used in the text your proposed project work.

4.0 CONCLUSION

Anybody who is reading a research report must necessarily be informed enough about the study so that he can place it in its general scientific context, judge the adequacy of its methods and thus form an opinion of how seriously the findings are to be taken. For this purpose there is the need for proper layout of the report.

5.0 SUMMARY

In this unit, students have learnt about the structural outlay of a research report.

6.0 TUTOR-MARKED ASSIGNMENT

1. Why do we need analysing facts that we have already gathered?
2. Explain the significance of a structural outlay and narrate the various steps involved in writing such a report.
3. Describe, in brief, the layout of a research report, covering all relevant points.

4. What points will you keep in mind while preparing a research report in order to maintain accurate paragraphing and punctuation?
5. Write short notes on restrictive and non-restrictive in the use of 'comma' in punctuation.
6. Write short notes on restrictive and non-restrictive in the use of 'comma' in punctuation.

7.0 REFERENCE/FURTHER READING

Chegwe Emeke Nelson, (2016). Legal Research Methodology and Project Writing (Ekpoma-Nigeria: Ambrose Alli University Press.

UNIT 2 TABLE OF CONTENTS

CONTENTS

1.0 INTRODUCTION

In its preliminary pages the report should carry a title and date, followed by acknowledgements in the form of `Preface` or and `Foreword.` Then there should be a table of contents followed by a list of tables and list of graphs and charts/illustrations, if any, given in the report. The list of tables and list of charts help the decision maker or anybody interested in reading the report to locate easily the required information in the report.

2.0 OBJECTIVES

At the end of this paper, you should be able to discuss the operational outline of a paper.

3.0 MAIN CONTENT

The table of contents shows the main headings or major divisions of the work. The pagination of the chapter headings and its sub-divisions are shown. About two inches from the top of the page, the heading: **TABLE OF CONTENTS** is typed in capital letters and of course centred.

Below the heading is typed in capital letters, the preliminary pages with their pagination indicated in small Roman numerals showing the details of the text, we type the chapter numbers in capital letters. A line of spaced periods connects the last letter of the chapter heading with the page number. Above the chapter number is the word '**chapter**' typed in small letters. All the contents of the table of contents must correspond in every respect with the details of the text.

There are two kinds of table of contents - analytical and non-analytical. The analytical table of contents is one which indicates all the details of chapter divisions and sub-divisions together with the pagination.
Non-analytical table of contents is primarily concerned with indicating the chapter headings. It does not go into the trouble of indicating the minutest detail of chapter divisions and sub-divisions as does the analytical. At best it supplies the chapter heading with their pagination and the chapter divisions (main divisions) without their pagination.

In both analytical and non-analytical the chapter headings are separated from one another with double space. While the chapter heading is separated from the sub-heading with double space, the chapter sub-headings are separated from one another with single space.

3.1 Non-Analytical Table

Sample of Non-Analytical Table
(Chapter has only division):

CONTENTS

Second Sample of Non-Aanalytical Table of Contents
With Chapter Division and Sub-Division:

TABLE OF CONTENTS

3.2 Analytical Table

First Sample:

TABLE OF CONTENTS

Second Sample:
(Analytical with sub-title notation)

TABLE OF CONTENTS

Third Sample:
(Analytical – Alternative Form)

TABLE OF CONTENTS

3.3 List of Tables and Illustrations

The list of tables and illustrations show the tables and illustrations respectively used in the paper. The general form of the two follows strictly that of the table of contents except that the first letters of each important word of the titles of table and illustration is capitalized. The table and illustration numbers are shown in Arabic numbers.

It should he emphasized that list of tables and illustrations should be placed in different pages.

LIST OF TABLES

LIST OF ILLUSTRATIONS

Figure

4.0 CONCLUSION

The above organisational elements are the backbones of any research or thesis. To put them together to make a successful research piece requires more skill than knowledge. The text of your research thesis or project consists of your broader understanding of this area of your research.

5.0 SUMMARY

At the end of this paper, the student must have known the operational outline of a paper

6.0 TUTOR-MARKED ASSIGNMENT

1. List and explain the various forms of Table of Contents.

7.0 REFERENCES/FURTHER READING

1. M.U. Gasiokwu, *Legal Research And Methodology* (2000).

UNIT 3 SELECTING AND ARRANGING MATERIALS

CONTENTS

1.0 INTRODUCTION

During the course of his research, the student may have taken thousand notes. He must be prepared to discard some of them. A thesis must be closely argued, therefore no irrelevant material should be retained simply because it has been collected. At this stage, a student should bear in mind that he is addressing a specialised audience and not the general public. This is when a student finds how useful the subject headings are on the notes since they obviate the necessity for reading through all the materials he has assembled.

2.0 OBJECTIVES

At the end of this unit, students should be able to select and arrange materials for their Legal Research.

3.0 MAIN CONTENT

Like most other types of composition, a thesis should have a beginning; middle and end. The beginning should take the form of an introduction or an introductory chapter. This section is normally used to state area of research, statement of aim, to explain why the research was carried out, to draw attention to the inadequacy of work that has so far been carried out in this field.

At the end of the thesis, there should be a conclusion or concluding chapter in which the main points are drawn together. As at the beginning

of the thesis the student will want to draw attention to the importance of his finding, make his suggestions and recommendations.

3.1 Various arrangement of Legal Research

As far as the body of the thesis is concerned there are several standard ways of approaching a subject.

3.1.1 Deductive Arrangement

Deduction was described by Aristotle as Syllogism. This is mostly used by attorneys and law students where the legal system depends upon the doctrine of precedent or *stare decisis* (to stand firm as decided).

Syllogism has a three-step construction - major premise, minor premise and conclusion. The major premise is a general, accepted presumption, the minor premise shows that the subject under consideration fits into the class described by the major premise, and the conclusion logically follows.

Example: (Non-legal)

1. Major Premise: All men are mortal (general presumption).
   Minor Premise: Socrates is a man. (Individual belongs in class described).
   Conclusion: Socrates is mortal. (thus, major premise applies to individual).

In law, the rule established by one or more superior court decisions becomes precedent to be followed by other courts, and serves admirably for use as a major premise.

2. Major Premise: Courts have held that in order to establish liability for negligence, plaintiffs must show only that "but for" defendants' negligence the injury to plaintiff would not have occurred.
   Minor Premise: The injury to this plaintiff A would not have occurred except for the negligence of this defendant B.
   Conclusion: B is liable for negligence to A.

The user of deductive reasoning should carefully check each premise for accuracy because syllogism is only as valid as its parts. If there is fault in the major premise due to ambiguity then the major premise will be invalid, and the syllogism fails.

For example:

3. Major Premise: Delta courts have held enforceable contracts between physicians and patients in which a physician agrees to refrain from using artificial methods to postpone the patient's death.

Minor Premise: In Delta, Physician A agreed to refrain from using artificial methods in the treatment of (B), the patient, in order to postpone B's death.

Conclusion: The contract between physician A and patient B is legally enforceable in Delta.
The major premise is faulty due to ambiguity. Does 'Delta Courts' mean "all 'Delta Courts" Or "some' Delta Courts"? If only some 'Delta courts have held that such contracts are enforceable, other 'Delta courts may have disagreed. If so the major premise is invalid and the syllogism fails.

3.1.2 Inductive Form of reasoning

This is the reverse of the deductive form. By this method individual bits of evidence are presented and from them a general conclusion is drawn. Induction is the mode of the scientific researcher, who must collect data from his experiments to make a generalization based upon the results obtained.

In the course of progression from facts to generalization, the researcher makes sure that the facts offered are relevant to the conclusion, that the facts presented are accurate and complete enough to justify the conclusion, and finally that the exceptions (if any) are not substantial enough to invalidate the conclusion.
It is on these premises that the accuracy of the inductive argument depends.

3.1.3 Comparison and Contrast

These can be used in all expository writing to clarify a subject by showing that it resembles or differs from others. The matters with which it is being compared may seem similar yet be different or may seem different yet be similar.

In legal writing, Comparison and contrast often take the form of analogizing and distinguishing. This strategy is often used essays containing hypothetical fact situations

3.1.4 Process

This is an orderly, step-by-step explanation. The ability to describe procedures and events in the proper order without gaps is valuable in legal writing because of the importance of accuracy and completeness in legal matter. Process results in detailed and orderly explanation.

Other ways employed in approaching subject include: by way of analogy, illustration, definition and classification.

3.2 Sub-Divisions

In long thesis, the chapters are sometimes sub-divided. Each section is numbered and has a heading. Sub-divisions are helpful to the reader. [hey also make the student's writing task easier since the heading signposts the stages in the argument and consequently relieve the student of much of the task of maintaining continuity and achieving coherence by use of transitional devices. Students should give some thought to the way in which the headings are worded and also to how they are presented.

In general, headings should be short and give a clear indication of the subject.

3.3 Arranging the Notes

The student should arrange his notes in corresponding order. He will find it easier to write the thesis if the notes are divided into small manageable groups, each representing a division of a chapter or a stage in the argument.

Once the notes are arranged, the student must then make a formal outline for the thesis. A formal outline is one in which each chapter is clearly headed and numbered, and the sub-divisions are indented and numbered. This kind of an outline is useful to the student because it enables him to see the structure of his thesis at a glance.

3.4 Pitfalls to avoid

(a) **Archaic words**: Archaic legal formulae are often tautological. They give your writing a musty effect. Archaic repetitious phrase

should therefore be deleted from your writing. To do that, examine every phrase you have joined with "and". Whenever the words on either side of "and" mean the same thing or ... one of the two words include the meaning of the other (as in "first and foremost"), delete one. This directive also applies ... to words in series.

For example:

For

Substitutes

Last will and Testament

Will

Null, void and of no further effect

Null (or void)

Force and effect

Force (or effect)

Kind and character

Kind

Suffer and permit

Permit

Full and complete

Full (or complete)

Clear and free

Clear (or free)

This list is far from complete.

(b) **Metaphor-osis**: There is the tendency to mix or mangle metaphors. It is damaging to your writing. Members of the legal profession seem more susceptible than their counterparts in the general population to metaphor-osis

Example of mixing metaphors:

"An old dog can't change its sports"

This is a mixture of two metaphors:

"You can't teach an old dog new tricks" and

"a leopard can't change its sports".

In a campaign for Massachusetts primary in 1976, Gerald Ford's Campaign Manager used the ship metaphor in responding to a suggestion that Mr. Ford's political strategy be modified after a loss in a primary. He said "I am not about to re-arrange the deck

chairs on the Titanic". (This unwise, but unintentional comparison of Mr. Ford's campaigning to a sinking ship proved prophetic).69

Precautions to help avoid metaphor-osis:

(i). Never use trite metaphors and indulge only sparingly in fresh ones.

(ii). Delete from your rough draft all mixed metaphors that may have crept in.

(iii). Be sure that those metaphors that remain illustrate rather than detract from your message.

(c) **Impossible Comparisons**:

For example:

(i). The first public hearing on whether General Hospital switch from control by the Local Government to a non-profit

(ii). Like the over-eager young graduate student, the planner's dilemma, is what to keep the nuclear reaction in.

(iii). The governor's record speaks louder than any smoke-screen, the opposition has thrown up.

In (i) the local government control is improperly compared to a non-profit corporation; in (ii) a dilemma is compared to a graduate; in (iii) the governor's record is compared to a smoke-screen (that "speak"). Recasting the sentences to make the intended comparisons in (i) and (ii) the resulting statements reveal confused thinking which had previously been hidden by cloudy statement.

(i). The first public hearing on whether General Hospital should switch from control by the Local Government to control by a non-profit corporation will be on March 11 (Now that the comparison is clear, the misstatement is visible, what the writer probably meant is, the first public hearing on whether General Hospital should cease being controlled by local government and become a non-profit corporation will be on March 31).

(ii). The planner's dilemma is like that of an over--eager young graduate student who wonders what to keep the nuclear reaction in. (Now that the two dilemmas are properly compared the fallacy of the comparison is revealed: does the writer really mean that the graduate strident is puzzled about "what to keep the nuclear reactor in").

(iii). The governor's record is visible through any smoke-screen the opposition has tried to throw up. (The writer now makes two points, that the governor's record is clear, and that the opposition has tried to becloud it). "People who make impossible comparisons" according to Block "reveal an inability to make fine distinctions in language, indicative of inability to make such distinctions in thinking"

(d) **Wrong Connectors**: Some students ignore inserting comma where necessary. It missing comma often causes ambiguity. They should be included in legal writing where exactness is essential.

Compare the following:

(i) Neither slavery nor involuntary servitude, unless for punishment of crimes, shall be tolerated in this State.

(ii) Neither slavery, nor involuntary servitude unless for punishment of crimes, shall be tolerated in this State.

In (i) the State permits slavery for punishment of crimes; in (ii) slavery prohibited and, involuntary servitude permitted only for punishment of crimes. The difference in meaning is accomplished by the presence or absence of one comma.

(iii) Israelis have announced the capture of five terrorists, three Lebanese, and two Syrians.

The comma after "Lebanese" makes the total number captured ten, but without the comma, the total would be five. Israelis have announced the capture of five terrorists, three Lebanese and two Syrians.

Connecting words - like "but", "for", "and", "since" and adverbs like "hence", "therefore", "nevertheless", and "however" provide nice distinction which may be crucial. They can also make ideas become fuzzy when used indiscriminately. "And" indicates only accompaniment or sequence, as in:

(i) James and Felicia are law students (accompaniment).

(ii) I went home and went to bed (sequence).

Words like "since", "because", "so", "thus", "hence", and "therefore" are used to express causality. For example:

(i) If the defendant can prove that the State Statute was vaguely written because it did not give adequate notice, the federal statute might override it.

(e) **Cumbersome Sentence**: In legal essays, long, circuitous sentences result in confusing, sometimes unintelligible writing. Such cumbersome sentences are often used by law students believing them to be "Lawyer-like". Students tend to say too many things at once, therefore they cram as many facts as possible in one sentence.

Block suggests this formula as a cure to unnecessary use of long sentences.

(i) If you have something to say, say it clearly and only once.
(ii) If you have two or more to say, say them one at a time and in order.
(iii) If you need to, for clarity, shorten your sentences.
(iv) Begin at the beginning. State the subject, then place the verb as close to it as possible.
(v) Delete unnecessary "it" and "this' clauses.
(vi) To present a number of ideas. Use unnumbered "lists", in order.
(vii) And when you have finished, be sure you have said "who" did "what" to "whom".

(f) **Ambiguous Negative**: Students and legal writers are advised to use positive statements than negative ones. Positive statements are more forceful than the negative ones. As in the following examples, the second statements are of greater forcefulness.

(i) He did not carry out his responsibility. He abrogated his responsibility.
(ii) He did not fulfil his duty. He failed in his duty.
(iii) He did not carry out his part of the contract. He breached the contract.

Negative statements can create ambiguity that was not intended by the writer. Some writers at times feel compelled to be ambiguous in their writing. We are therefore not legislating

against that. It is however, our opinion, better to be clear and concise.

4.0 CONCLUSION

Selecting and arranging materials for a research paper must be done very carefully to attain maximum perfection.

5.0 SUMMARY

In this unit, students must have learnt how to select and arrange materials for their Legal Research.

6.0 TUTOR-MARKED ASSIGNMENT

1. "Interpretation is a fundamental component of research process". Explain. Why so?
2. Describe the precautions that the researcher should take while interpreting his findings.
3. "Interpretation is an art of drawing inferences, depending upon the skill of the researcher". Elucidate the given statement explaining the technique of inductive and deductive reasoning.
4. "It is only through interpretation the researcher can expose the relations and processes that underlie his findings". Explain, giving examples.
5. Write a short note on 'Documentation' in the context of a research report.
6. Explain the technique and importance of oral presentation of research findings. Is only oral presentation sufficient? If not, why?
7. Write short notes on the following:
   (a) The techniques of writing report;
   (b) Characteristics of a good research report;
   (c) Bibliography and its importance in context of research report;
   (d) Rewriting and polishing of report.
8. "Report writing is more an art that hinges upon practice and experience". Discuss

7.0 REFERENCES/FURTHER READING

1. M.U. Gasiokwu (2000). Legal Research And Methodology.

MODULE 3 FINALISING A RESEARCH PAPER

UNIT 1: FINAL WORK

CONTENTS

1.0 INTRODUCTION

In writing a research project there are certain intricacies involved. In this unit, the various processes of editing and arranging a research project will be expounded on.

2.0 OBJECTIVES

At the end of this introductory unit, you should be able to edit and arrange a research project.

3.0 MAIN CONTENT

3.1 Editorial Work

After writing the thesis, the student is advised to edit his work carefully before he hands it to the typist. It is essential to carefully proofread the draft so as to correct any mistakes that have been made. Once the thesis has been typed and bound only minor mistakes and omissions can be corrected.

Persons has suggested that the student should ask himself the following questions since thesis are probably the criteria the examiners will have in mind when they asses the thesis:

1. ***Content***

(a) Does the thesis fulfil the aims stated in the preface or introduction?
(b) Have the major conclusion been persuasively argued?
(c) Is there enough material in the thesis to support the claims made?
(d) Are all the material in the thesis relevant?
(e) Is the research on which the thesis is based sufficiently extensive?
(f) How certain is the reliability of the major sources?
(g) Are the citations and references accurate?
(h) Are all the quotations, tables, etc. accurate?
(i) Are the bibliographical details complete and correct?
(j) Does the table of contents give an accurate indication of what the thesis contains? Make sure that the items in the table are identical to the headings in the text.

2. *Form and Arrangement*

(a) Are all the elements of the thesis present? – Title page, table of contents, list of tables and illustrations, appendices and bibliography.
(b) Does the thesis have introductory and concluding sections?
(c) Is the arrangement of the chapter and the materials within the chapters logical?

3. *Style*

(a) Make sure that the language conforms to prevailing standard of usage. Check the grammar, spellings and punctuations. The punctuations is the footnote and in the bibliography should be consistent.
(b) What you have written must be clear. The argument and finding must be expressed concisely.
(c) The style must be courteous? Make sure that you have nowhere condescended to the work of other writers to make sure that they could not cause offence.

SELF-ASSESSMENT EXERCISE

1. List and explain the points to note when editing a research project.

3.2 Final Parts

(a) Acknowledgments

Any help received by the student in the course of his research, be it in the form of provision of facilities or formulating of ides should be acknowledged. This is usually done in a preface, forward or a section entitled "Acknowledgement."

(b) Abstract

Some institutions require these to be provided with an abstract (i.e. the summary of the thesis). An abstract can have a maximum length of 300 or 600 words, depending on the length of the thesis. The abstract could be bound with the thesis or submitted separately depending on the regulations of Establishments.

(c) List of abbreviations

The list of such abbreviation for words to which the student refers frequently in the text of his thesis must be provided at the beginning of the thesis.

(d) List of References

If the references have not been included at the bottom of the appropriate page, or at the end of each chapter, they should be listed at the end of the thesis immediately after the appendices.

(e) List of Non-Written Sources

An appendix containing an alphabetical list of people, places and organisations should be included at the end of the thesis embodying the results of field work (where applicable). Students must remember to be consistent in their method of description. If this list takes the form of an appendix it should be placed with other appendices immediately after the main part of the thesis.

(f) Table of Statutes and Treaties

There are hardly cases of legal researches that do not involve the use of statutes (when exclusively internal) or treaties (if international relation is involved). Students should make a list of

such statutes and treaties, indicating the articles or sections revenant to their thesis.

(g) Table of Cases

Legal researchers have found it increasingly necessary to cite decided cases to buttress their points or arguments. The list of used cases should be drawn in alphabetical orders, and the pages where they are located should also be indicated.

(h) Bibliography

A bibliography is a list of written sources consulted during the course of research. Every work cited in the text and footnotes should be included.

The list may also include works that the student found useful in formulating ideas presented in the thesis. The bibliography can either be organized as a single alphabetical list or divided into two or more lists in one of the following ways;

(a) Unpublished/published sources.
(b) Primary/secondary sources.
(c) Books/Articles.
(d) Division by chapter. This is appropriate where different sources have been used for each chapter.

The bibliography is alphabetized by author's surname. In addition to the author's name, the bibliography includes the following information;

(a) Title of the work (underlined)
(b) The imprint – place, publisher, date.
(c) Pagination (compulsory for articles, optional for books).

SELF-ASSESSMENT EXERCISE

1. What is bibliography? And what is its difference from footnote/endnote?

3.3 Typing and Binding

a) Paper

A good quality paper of international A4 size should be used. But where this is not available, students are advised to use the quarto sized papers which are usually recommended in most Nigerian Universities. A margin of not less than 40 mm should be allowed

on the left hand side of the page to allow for binding, and at least 200 mm on the right.

The text of the thesis should be double-spaced but indented quotations and footnotes should be single-spaced. Do not divide words of one syllable. Words are normally divided at the end of a syllable (A syllable is the sound uttered at a single effort of voice, and constituting a word). Do not divide a word at the end of the page.

b) Heading and Titles

Chapter heading should be capitalized and centred. Sub-division headings are typed from the left-hand margin in the lower-case type and underlined. Major sub-divisions should be commenced on a new page. The titles of appendices should be capitalized and centred on the page on which the text commences. The titles of tables and charts are also capitalized, centred, and placed above the material to which they refer.

c) Tables and Diagrams

They should be near to the parts of the text to which they refer. Short tables should be included in the body of the text, and the table number separated from the text by two or three spaces. Two spaces below, the heading should be typed in capitals. Lengthy tables should be placed in appendices. If the writer is quoting the table, the source must be acknowledged and indicated below the table, preceded by the word 'Source'. Any explanatory note to the table by the student should be placed below the name of the source. But when the notes are part of the quotation, they should be placed above the source.

d) Footnotes

Footnote numbers in the text are placed immediately after the relevant material and slightly above the line. The footnotes should be typed single spaced and well punctuated.

e) Bibliography

The heading 'bibliography' should be capitalized and centred. Two

spaces should separate the division heading and the first entry in the division. Each entry should begin from the left margin but the second and subsequent lines of an entry should be indented four or five spaces and single-spaced. When more than one work by the same author is cited it is usual to type a line instead of his name in the second and subsequent entries. This is however not a legislation against the repetition of the author's name if the students' establishment encourages it.

f) Pagination

The preliminary pages (Title page, Preface, Table of contents, List of abbreviations, List of tables, List of illustrations) are normally paginated in small roman figures, and starting the Arabic numerals on the first page of the body of the theses. It is usual to place the number at the centre of the bottom of the page. The number could also be placed at the top (centred).

g) Corrections

Students should re-read the typed theses and make corrections before sending them to the binder. Only small errors of punctuation and spelling may be corrected in ink. If there are several errors on a page, then it should be re-typed.

h) Binding

Law students should preferably bind their theses in black covers to agree with the traditional black gown. There is, however, no law against other colours. On the spine of the theses, it is usual and of course advised to have the course, the year in which the theses were written, and the initials and surname of the student. This information, together with the title of the thesis must be placed on the front cover. Binders are not obliged to collate theses. The student should therefore make sure the pages are in the correct order before copies are sent out for binding.

4.0 CONCLUSION

As stated earlier, the careful proofreading of the draft cannot be over-emphasised. Once the thesis has been typed and bound only minor mistakes and omissions can be corrected.

5.0 SUMMARY

In this unit, you have learnt how to edit and arrange a research project.

6.0 TUTOR-MARKED ASSIGNMENT

and explain the points to note when editing a research project.
Discuss the difference between footnote and endnote
What is bibliography? And its difference from footnote /endnote?
What is the purpose of writing bibliography?

7.0 REFERENCE/FURTHER READING

1. Adopted from M.U. Gasiokwu (2000). *Legal Research And Methodology*.

UNIT 2 CITATION GUIDE IN LAW

CONTENTS

1.0 INTRODUCTION

What is Legal citation? It is standard language that allows one writer to refer to legal authorities with sufficient precision and generality that others can follow the references, because writing by lawyers, judges, and legal researchers is so dependent on such references. It is a language of abbreviations and special terms. While this encryption creates difficulty for lay readers, it achieves a dramatic reduction in the space consumed by the often numerous references. As you become an experienced reader of legal writing, you will learn to follow a line of arguments straight through the many citations embedded in it. The following citation signals and the accompanying explanations were adopted from M.U. Gasiokwu's *Legal Research and Methodology*.

2.0 OBJECTIVES

At the end of this introductory unit, you should be able to discuss the various citation signals used in legal research.

3.0 MAIN CONTENT

3.1 Books

1. The full citation of a book includes, in this order:
    (i). Author's name(s), followed by a comma. (Last name and first initials unless author is commonly known by more than one initial or none at all)
    (ii). The title, *in italics* (exclusive of subtitle).

(iii). Volume number (if any) follows the title of the book e.g. Poollock & Maitland, *The History of English Law*. Vol. 2.

(iv). Parenthesis enclosing:

(a) the edition (if more than one) – no comma;

(b) place of publication, followed by a colon;

(c) publisher, followed by a comma;

(d) date of publication

e.g. Treitel, *The Law of Contract* (2nd ed. London: Stevens & Sons, 1966) at 231-47

2. The following are examples of references to various types of books and situations:

(i). A book with a single author.

e.g. Northrop Frye, *Anatomy of Criticism* (Princeton: Princeton University Press, 1957) at 52

(ii). Where the author's full name and/or book title has been given in the text

e.g. *Anatomy of Criticism* (Princeton: University Press, 1957) at 73

NOTE – The use of 'at' instead of 'p' is a departmental variation recommended for law students, and does not in any way invalidate the use of 'p' for page.

(iii). Institutional author

e.g. *Report of the Commission on the Humanities* (New York: American Council of Learned Societies, 1964) at 130

(iv). Manuscript sources

e.g. Public Archives Canada, *Thomson Papers*, Vol. 193, Martin J. Griffin to Thompson, Dec. 1893. Subsequent citations to Public Archives Canada may be shortened to 'P.A.C'.

(v). Unpublished material

Martin Gasiokwu, *The Legal Status of Foreigners in Nigeria* (unpublished LL.M. Thesis, Friendship University, Moscow, 1983).

3.2 Editors, Translators and Contributors

1. Generally, an editor or translator should be given credit for his work.

If the name of the editor or translator appears on the title page of the book and there is no single author, the editor's name appears first in the footnote, followed by a comma and 'ed.' If the name of the author appears on the title page, the name of the editor or translator follows the name of the book and is preceded by 'ed.' or 'trans.'

e.g. A. Linden, ed. *Studies in Canadian Tort Law* (Toronto: Butterworths, 1986). Theobald, *The Law of Wills*, ed. S. Cretney and G. Dworkin (13th ed. London: Stevens, 1971)

Bentham, *AN Introduction to Principles of Morals and Legislation*, Vol. 3, ed. H.L.A. Hart (London: A, Thone Press, 1970).

3.3 General Rules of Citation

3.3.1 *Repeating Citations*

1. ***Id.***

(i). Use Id. not Ibid.

(ii). Id. may be used whenever a citation is to be *immediately preceding* authority. Any variation between the previous and present footnote must be indicated.

e.g. 1. A.V.B., [1973] 2 O.R. 1.
2. Id. at 10.

(iii). Where the reference is to a parallel citations, the short form should be parallel as well.

e.g. Id. at 20 (S.C.R.); 65 (D.L.R); 9 (C.C.C.).

2. ***Hereinafter***

Where subsequent reference is made to any *secondary* material, provided 'Id.' should not be used, shortened form making reference to the author(s) and, if need be, the date may be used, provided its use is indicated in the original footnote.

The date is used where there are other references to different works of the same author.

e.g. J. Day, *A tramp in the American woods* (9th ed. Cleveland: Hough Street Press, 1965 [hereinafter day (1965)])

3. ***'Infra' and 'Supra'***

(i). 'Infra' is used to refer to portions of the text or footnotes which come *after* the present footnote.

e.g. 15. see text, infra, at 365.

(ii). Where reference is made to a work by a contributor in a book edited by another, the citation is as follows:
   (a) The name of the author of the work;
   (b) The title of the work in quotations (not underlined), followed by a comma inside the second quotation mark;
   (c) And the word 'in' followed by the proper citation for a book with an editor.
   e.g. F. Nugan, "Pre-Incorporation Contracts", in J. Ziegel, ed., *Canadian Company Law* (Toronto: Butterworths, 1967) at 197.

(iii). For the contributors to Law Society Special Lectures, the journal will use the following style: M. Gorsky, "The Landlord and Tenant Amendment Act, 1968-69. Some Problems of statutory Interpretation" (1970) LSUC Special Lectures 443 at 449.

3.3.2 *Periodicals*

1. The full citation
   (i). The author's name (one initial, as with books) followed by a comma. If no author is shown, use the form of designation in the journal.
   (ii). The title of the article in italics.
   (iii). Parentheses enclosing the date of publication.
   (iv). The volume number (where there is one). If a journal does *not* have individual volume numbers, substitute the date in *square brackets*.
   (v). The abbreviated name of the periodical. e.g. Can B. Rev.; Osgoode Hall L.J.; Yale L.J; U. of T.E.J.
   Examples:
   H.P. Green *Nuclear Power: Risk Liability and Indemnity* (1973), 71 Mich. L. Rev. 479.
   H.W.R. Wade, *The Basis of Legal Sovereignty* (1955) Camb. L.J. 172.
   Industrial Due Process and Just Cause for Discipline (1958-59), 5 U.C.L.A.L. Rev. 603
   (vi). Where non-legal periodicals are cited, they should be cited using the legal format.
   e.g. A.P. Thornton, *The Sound of Running History* (1973) International

Journal 591.

2. The following are examples of citations from other periodicals:
   (i). A piece from a magazine
   Henning Cohen, "Why is Melville for the Masses", *Saturday Review*, 16 August 1969 at 19-21.
   Irving Howe, "James Baldwine At Ease in Apocalypse", *Harper's* Sept., 1968 at 92.
   (ii). A report from a daily newspaper. Boston Herald, Oct. 14, 1954 at 6, Col. 1.
   (iii). A signed article (but not ad a news report) from a newspaper. Brittan, "Tory Radicalism". *The Times* (London), July 1954 at 7, Col. 6.
   (iv). A book review is cited by the name of the reviewer.
   A. Linden. *The New Wright: A Magnificent Triump* (1971), 4 Liberal Newspaper 24. *Supra* is used to refer to portions of the text or footnote.
   e.g. 76. See, *Supra*, note 23 at 223-29.
   With *supra*, if the name of the case, book, or article cited earlier appears in the text, you need not repeat it.
   e.g. 14. *Supra*, note 8 at 15
   If the name of the authority to be cited for the second time is not in the text, you indicate it.
   e.g. 14. Alli v. Rotimi, *Supra*, note 4/15.
   Cheshire and Fifoot, *supra* note 12.
   Do not use *supra* or *infra* to refer to statutory material. The full citation must be repeated unless it immediately precedes the present citation.
   Supra and *infra* may be used to refer to groups of cases or statutes.
   e.g. 22. See cases cited note 11, *Supra*
   23. See discussion pp. 22-27, *infra*
   Note – The first time a case is named in the text, the name must be printed in full with the full citation in the footnote. Subsequent references to the case may be by the name of one of the parties or an established popular name, no citation is necessary if the reference is within the general discussion of that case.

3.3.3 *Referring to Sub-Divisions in Material Cited*

1. *Reference to the Total Work*
   A reference to an entire case, article etc. gives only the beginning page of the authority. e.g. 65 D.L.R. (2^{nd}) 21.

2. *Reference to page Number(s)*
   (i). When referring to a particular page, give both the beginning and reference pages (unless this is a situation where 'Id.' can be used).
   (ii). Use 'at' to refer to a page, not the abbreviation 'p' e.g. W.R. Jackett, *The Federal Court of Appeal* (1973) 11 Osgoode Hall L.J. at 255-57.

3.3.4 *Signals and Parentheticals*

1.	[no signal]	Cited authority directly supports statement in text
2.	*accord*	Cited authority directly supports statement although facts are different. The use of 'accord' is most frequently appropriate when two cases are directly in point but the text quotes from or states the facts of the cases; citation of the other would be introduced by 'accord'. Similarly, the law of one jurisdiction may be cited as in accord with that of another if the law is exactly the same.
3.	e.g. (when used in combination with other signals, preceded by a comma)	There are other examples but citation to them would not be helpful
4.	See	Cited authority constitutes basic source material supporting an opinion or conclusion of either fact or law drawn in a textual statement. It indicates that the asserted opinion or conclusion will be suggested by an authority rather

		than that the opinion or conclusions is stated by the cited authority.
5.	*Cf.*	Cited authority supports a statement, opinion, or conclusion of law different from that in text but sufficiently analogous to lend some support to the text.
6.	Compare…with…	Authorities cited, taken together and offer some support for statement in text
7.	*Contra*	Cited authority directly contradicts statement although facts may be different
8.	But see	Cited authority strongly suggests a contrary proposition (N.B. 'but' should be dropped from all contrary signals following the first).
9.	But *cf.*	Cited authority supports a position different from the statement in text, but sufficiently analogous to it suggest a contrary conclusion.
10.	See generally	Cited authority is broader in scope than, or develops a question analogous to discussion in text without lending support to proposition asserted, but can profitably be compared with it.
11.	*Loc. cit.*	Cited authority is in the same passage referred to in a recent note, when other references have intervened (used sparingly).
12.	*Op. cit.*	Cited authority is on a different page of a work recently noted (used sparingly)
13.	*ff.*	Cited authority continues on pages following that cited.

3.3.5. *Weight and Parentheticals*

Where cited authority is somewhat ambiguous, use 'semble' in parentheses after the page to so indicate. e.g. (1941) 38 OR82 (semble). Other examples of parentheticals suggesting the weight to be given to cited authority are (by implication), (dictum), (dissenting), (*per curiam*).

3.4 Miscellaneous Provisions

1. Headings

The format to be adopted is:

(i). for major headings – large capital letters, not underlined

(ii). for sub-headings – small letters in *italics*.

Note – Any words underlined in the text of an article will be typed in italics.

2. Omission in Quotations

(i). When parts of the sentence are omitted, use three periods to indicate the omission.
e.g. "When parts…are omitted".

(ii). If a whole sentence or the end of a sentence is omitted, use four periods.

(iii). When a paragraph is omitted, show this by inserting four periods, indented, as the paragraph would be.
e.g. "She was deprived of custody…
…. While Section 3 *of the Infants Acts* …."

(iv). A change from a lower case letter to a capital letter or vice versa is indicated by *square brackets*.

3. Mistakes in the Use of Quoted Material

Designated by [sic.] Always in square brackets e.g. It must be so otherwise [sic] the case is incorrectly decided.

4. Omission in Citation

Where there is no page, no date or no publisher in a cited work, use the following abbreviations:

n.p. – no page
n.d. – no date
n.pub. – no publisher

5. Emphasis Added

Where the author has added emphasis in a quotation, designate by [emphasis added] in square brackets immediately following the quotation.

6. Quotation for a Particular Judgement

When quoting from a particular judgement, use the following form in the footnote.

e.g. Deeks v. Wells [1963] O.R. 828 at 820 *per* Smith J. (C.A.)

4.0 CONCLUSION

Citations should contain enough information to indicate clearly to readers what work is referred to, and where it can be obtained. The information required to satisfy this goal should be detailed; reference should often be made to foreign materials.

5.0 SUMMARY

In this unit, you have learnt how to understand the various citation signals used in legal research.

6.0 TUTOR-MARKED ASSIGNMENT

1. What do you understand by citation?
2. What is the importance of studying rules of citation?

7.0 REFERENCE/FURTHER READING

M.U. Gasiokwu (2000). *Legal Research and Methodology*

UNIT 3 LATIN PHRASES AND EXPRESSIONS GENERALLY USED IN LEGAL RESEARCH

CONTENTS

1.0 INTRODUCTION

Below is a list of Latin terms which to varying degrees are still used in English. Some of these Latin terminologies are very common in general speech and written communications; other Latin terms are more rarely used, in specialised situations, notable for example in Law, Science, and Education/Academia.

Latin terminologies, expressions and phrases feature widely in the English language. The modern meanings and usage, while evolve and adapted, mostly still general y reflect the original literary translation. Though regarded as a dead language because it is not used as a main language in day to day communications and life, it however remains very much alive as a highly significant language, especially in legal discourse.

2.0 OBJECTIVES

At the end of this introductory unit, you should be able to master some examples of Latin terms which are used very widely in legal research, including some extremely common abbreviations.

3.0 MAIN CONTENT

Term or phrase	Literal translation	Definition and use
a fortiori	from stronger	An *a fortiori* argument is an "argument from a stronger reason", meaning that because one fact is true, that a second

		related and included fact must also be true.
a mensa et thoro	from table and bed	Divorce *a mensa et thoro* indicates legal separation without legal divorce.
a posteriori	from later	An argument derived from subsequent event
a priori	from earlier	An argument derived from previous event
a quo	from which	Regarding a court below in an appeal, either a court of first instance or an appellate court, known as the court *a quo.*
ab extra	from outside	Concerning a case, a person may have received some funding from a 3rd party. This funding may have been considered *ab extra*.
ab initio	from the beginning	"Commonly used referring to the time a contract, statute, marriage, or deed become legal. e.g The couple was covered *ab initio* by her health policy."[1]
absque hoc	without this	"Presenting the negative portion of a plea when pleading at common by way a special traverse."
Actori incumbit probatio	On the plaintiff rests the proving	The burden of proof falls to the plaintiff, claimant, or petitioner according to Roman law.
actus reus	guilty act	Part of what proves criminal liability (with *mens rea*)
ad coelum	to the sky	Abbreviated from *Cuius est solum eius est usque ad coelum et ad infernos* which translates to "[for] whoever owns [the] soil, [it] is his all the way [up] to Heaven and [down] to Hell." The principle that the owner of a parcel of land also owns the air above and the ground below the parcel.
ad colligenda bona	to collect the goods	

ad hoc	for this	Generally signifies a solution designed for a specific problem or task, non-generalizable, and not intended to be able to be adapted to other purposes.
ad hominem	at the person	Attacking an opponent's character rather than answering his argument.
ad idem	to the same thing	In agreement.
ad infinitum	to infinity	To continue forever.
ad litem	for the case	Describes a party designated to represent another party who is deemed incapable of representing him/herself (e.g. a child or incapacitated adult).
ad quod damnum	according to the harm	Used in tort law. Implies that the reward or penalty ought to correspond to the damage suffered or inflicted.
ad valorem	according to value	
adjournment sine die	adjournment without a day	When an assembly adjourns without setting a date for its next meeting.
affidavit	he has sworn	A formal statement of fact.
alter ego	another I	A second identity living within a person.
amicus curiae	friend of the court	A person who offers information to a court regarding a case before it.
animus contrahendi	contractual intent	Intention to contract
animus nocendi	intention to harm	The subjective state of mind of the author of a crime, with reference to the exact knowledge of illegal content of his behaviour, and of its possible consequences.
animus possidendi	intention to possess	"In order to claim possessory rights, an individual must establish physical control of the res and the intention to possess (i.e. *animus possidendi*)"
animus revertendi	intention to return	"Wild animals, such as bees and homing pigeons, that by habit go 'home' to their possessor. Used when discussing *ferae naturae*."

ante	Before	
(in) *arguendo*	for the sake of argument	
Audi alteram partem	hear the other side	Refers to the idea that one cannot be fairly judged unless the cases for and against them have been heard.
bona fide	in good faith.	Implies sincere good intention regardless of outcome.
bona vacantia	ownerless goods	
Cadit quaestio	The question falls	Indicates that a settlement to a dispute or issue has been reached, and the issue is now resolved.
Casus belli	Case of war	The justification for acts of war.
casus fortuitus	fortuitous event	*Force majeure*, specifically a man-made inevitable accident (e.g. riots, strikes, civil war); ex: When H.M.S. Bounty was destroyed by Hurricane Sandy, October 29, 2012, *casus fortuitus* would describe the H.M.S. Bounty being at the wrong place when Hurricane Sandy came up the coast. *HMS Bounty Sinks* Compare *vis major* (see below).
Caveat	May he beware	When used by itself, refers to a qualification, or warning.
Caveat emptor	Let the buyer beware	In addition to the general warning, also refers to a legal doctrine wherein a buyer could not get relief from a seller for defects present on property which rendered it unfit for use.
Certiorari	To be apprised	A type of writ seeking judicial review.
Ceteris paribus	With other things the same	More commonly rendered in English as "All other things being equal."
cogitationis poenam nemo patitur	Nobody suffers punishment for mere intent	
communio bonorum	Community of property	The aggregate of marital property under a community property matrimonial regime.
compensatio	Balance of delay	Delay in payment or performance on the

morae		part of both the debtor and the creditor
compos mentis	Having command of mind	Of sound mind. Also used in the negative "Non compos mentis", meaning "Not of sound mind".
Condicio sine qua non	A condition without which it could not be	An indispensable and essential action, condition, or ingredient.
consensus ad idem	Agreement to the same	Meeting of the minds, mutual assent, or concurrence of wills. Parties must be of one mind and their promises must relate to the same subject or object. Also *consensus in idem*.
consensus facit legem	Consensus makes the law	Stipulates that when two or more persons arrive at a good faith agreement, the law will insist on that agreement being carried out.
consuetudo pro lege servatur	Custom is held as law	Where no laws apply to a given situation, the customs of the place and time will have the force of law.
contra	Against	Used in case citations to indicate that the cited source directly contradicts the point being made.
contra bonos mores	Against good morals	Contracts so made are generally illegal and unenforceable.
contra legem	Against the law	Used when a court or tribunal hands down a decision that is contrary to the laws of the governing state.
Contradictio in adjecto	Contradiction in itself	A contradiction in terms.
contra proferentem	Against the one bringing forth	Used in contract law to stipulate that an ambiguous term in a contract shall be interpreted against the interests of the party that insisted upon the term's inclusion. Prevents the intentional additions of ambiguous terminology from being exploited by the party who insisted on its inclusion.
coram non judice	Before one who is not a judge	Refers to a legal proceeding without a judge, or with a judge who does not have proper jurisdiction.

corpus delicti	Body of the crime	A person cannot be convicted of a crime, unless it can be proven that the crime was even committed.
corpus juris	Body of law	The complete collection of laws of a particular jurisdiction or court.
corpus juris civilis	Body of civil law	The complete collection of civil laws of a particular jurisdiction or court. Also sometimes used to refer to the Code of Justinian.
corpus juris gentium	Body of the law of nations	The complete collection of international law.
corpus juris secundum		An encyclopaedia of US law drawn from US Federal and State court decisions.
crimen falsi	Crime of falsifying	Forgery.
cui bono	As a benefit to whom?	Suggests that the perpetrator(s) of a crime can often be found by investigating those who would have benefited financially from the crime, even if it is not immediately obvious.
cuius est solum eius est usque ad coelum et ad inferos	For whoever owns the soil, it is theirs up to Heaven and down to Hell	Used in reference to the rights of property owners to the air above, and land below, their property.
de bonis asportatis	Carrying goods away	Specifies that larceny was taking place in addition to any other crime named. E.g. "trespass *de bonis asportatis*".
debellatio	Warring down	Complete annihilation of a warring party, bringing about the end of the conflict.
de bonis non administratis	Of goods not administered	Assets of an estate remaining after the death (or removal) of the designated estate administrator. An "administrator *de bonis non administratis*" will then be appointed to dispose of these goods.
de die in diem	From day to day	Generally refers to a type of labour in which the worker is paid fully at the completion of each day's work.

de facto	In fact	Literally "from fact"; often used to mean something that is true in practice, but has not been officially instituted or endorsed. "For all intents and purposes". Cf. *de jure*.
de futuro	Concerning the future	At a future date.
de integro	Concerning the whole	Often used to mean "start it all over", in the context of "repeat *de integro*".
de jure	According to law	Literally "from law"; something that is established in law, whether or not it is true in general practice. Cf. *de facto*.
de lege ferenda	Of the law as it should be	Used in the context of "how the law should be", such as for proposed legislation.
de lege lata	Of the law as it is	Concerning the law as it exists, without consideration of how things should be.
delegatus non potest delegare	That which has been delegated, cannot delegate [further]	
de minimis	About the smallest things	Various legal areas concerning small amounts or small degrees.
de minimis non curat lex	The law does not concern itself with the smallest [things]	There must be a minimal level of substance or impact in order to bring a legal action.
de mortuis nil nisi bonum	Of the dead, [speak] nothing unless good	Social convention that it is inappropriate to speak ill of the recently deceased, even if they were an enemy.
de novo	Anew	Often used in the context of "trial de novo"—a new trial ordered when the previous one failed to reach a conclusion.
defalcation	Cutting off with a sickle	Misappropriation of funds by one entrusted with them.
deorum injuriae diis curae	The gods take care of injuries to the gods	Blasphemy is a crime against the State, rather than against God.

dictum	(thing) said	A statement given some weight or consideration due to the respect given the person making it.
doli incapax	Incapable of guilt	Presumption that young children or persons with diminished mental capacity cannot form the intent to commit a crime.
dolus specialis	Specific deceit	Heavily used in the context of genocide in international law.
domitae naturae	Tame by nature	Tame or domesticated animal. Also called *mansuetae naturae*. Opposite of *ferae naturae* (below)
donatio mortis causa	Deathbed gift	Gift *causa mortis*; "The donor, contemplating imminent death, declares words of present gifting and delivers the gift to the donee or someone who clearly takes possession on behalf of the donee. The gift becomes effective at death but remains revocable until that time."
dramatis personae	Persons of the drama	
dubia in meliorem partem interpretari debent	Doubtful things should be interpreted in the best way	Often spoken as "to give the benefit of the doubt."
duces tecum	Bring with you	A "subpoena *duces tecum*" is a summons to produce physical evidence for a trial.
ei incumbit probatio qui dicit	Proof lies on him who asserts.	The concept that one is innocent until proven guilty.
ejusdem generis	Of the same class.	Known as a "canon of construction", it states that when a limited list of specific things also includes a more general class, that the scope of that more general class shall be limited to other items more like the specific items in the list.
eo nomine	By that name.	
erga omnes	Towards all.	Refers to rights or obligations that are owed *towards all*.

ergo	Therefore	
erratum	Having been made in error.	
et al.	And others	Abbreviation of *et alii*, meaning "and others".
et cetera	And other things.	Generally used in the sense of "and so forth".
et seq.	And the following things	Abbreviation of *et sequens*, meaning "and the following ones". Used in citations to indicate that the cited portion extends to the pages following the cited page.
et uxor	And wife.	Usually used instead of naming a man's wife as a party in a case.
et vir	And husband.	Usually used instead of naming a woman's husband as a party in a case.
ex aequo et bono	Of equity and [the] good.	Usually defined as "what is right and good." Used to describe the power of a judge or arbiter to consider only what is fair and good for the specific case, and not necessarily what the law may require. In courts, usually only done if all parties agree.
ex ante	Of before.	Essentially meaning "before the event", usually used when forecasting future events.
ex cathedra	From the chair	Where *chair* refers to authority or position. Authority derived from one's position.
ex concessis	From what has been conceded already	Often used in a "guilt by association" context.
ex delicto	From a transgression	The consequence of a crime or tort.
ex facie	On the face	If a contract is blatantly and obviously incorrect or illegal, it can be considered void *ex facie* without any further analysis or arguments.
ex fida bona	Good business	

	norms	
ex gratia	By favour	Something done voluntarily and with no expectation a legal liability arising therefrom.
ex injuria jus non oritur	Law does not arise from injustice	A principle in international law that unjust acts cannot create laws.
ex officio	From the office	Something done or realized by the fact of holding an office or position.
ex parte	From [for] one party	A decision reached, or case brought, by or for one party without the other party being present.
ex post	From after	Based on knowledge of the past.
ex post facto	From a thing done afterward	Commonly said as "after the fact."
ex post facto law		A retroactive law. E.g. a law that makes a past act illegal that was not illegal when it was done.
expressio unius est exclusio alterius	The express mention of one thing excludes all others	When items are listed, anything not explicitly stated is assumed to not be included.
ex proprio motu	By [one's] own motion	Commonly spoken as "by one's own accord."
ex rel	[arising] out of the narration [of the relator]	Abbreviation of *ex relatione*. Used when the government brings a case that arises from the information conveyed to it by a third party ("relator").
ex turpi causa non oritur actio	From a dishonourable cause an action does not arise	A party cannot bring a legal action for consequences of his own illegal act.
exempli gratia	For the sake of example	Usually abbreviated "e.g.".
ex tunc	From then	Term used in contract law to specify terms that are voided or confirmed in effect from the execution of the contract. C.f. *ex nunc*.
ex nunc	From now on	Term used in contract law to specify

		terms that are voided or confirmed in effect only in the future and not prior to the contract, or its adjudication. C.f. *ex tunc*.
extant	Existing	Refers to things that are currently existing at a given point, rather than things that are no longer so.
factum	Deed	1. an assured statement made; 2. completion of a will and all its parts to make it valid and legal; 3). book of facts and law presented in a Canadian court
facio ut facias	I do, that you may do	A type of contract wherein one party agrees to do work for the other, in order that the second party can then perform some work for the first in exchange.
favor contractus	Favour of the contract	A concept in treaty law that prefers the maintaining of a contract over letting it expire for purely procedural reasons.
felo de se	Felon of himself	A suicide. This archaic term stems from English common law, where suicide was legally a felony, thus a person who committed suicide was treated as a felon for purposes of estate disposal.
ferae naturae	Wild animals by nature	Wild animals residing on unowned property do not belong to any party in a dispute on the land. Opposite of *domitae naturae* (above)
fiat	Let it be done	A warrant issued by a judge for some legal proceedings.
Fiat justitia et pereat mundus	Let there be justice, though the world perish.	Often used as a motto, notably by Ferdinand I, Holy Roman Emperor.
fiat justitia ruat caelum	Let justice be done though the heavens fall.	Also sometimes a motto, a legal maxim that justice must be done regardless of the result otherwise.
fieri facias	May you cause to be done	A writ ordering the local law enforcement to ensure that damages awarded by the court are properly recovered. A writ of execution.
fortis	strong	When determining whether a chattel is a

attachiamentum, validior praesumptionem	attachment, the stronger presumption	fixture: "size doesn't matter, how much or degree chattel is attached to 'land' and to 'what' "
forum non conveniens	Disagreeable forum	A concept wherein a court refuses to hear a particular matter, citing a more appropriate forum for the issue to be decided.
fructus industriales	Industrial fruits	Emblements; in property law, a co-owner profitng from her or his *fructus industriales* is solely responsible for any losses that may occur. (vs. *fructus naturales*, see below)
fructus naturales	Natural fruits	Vegetation naturally growing from old roots (as pasturage) or from trees (as timber or fruit) (vs. *fructus industriales*, see above)
fumus boni iuris	Smoke of a good right	Refers to having a sufficient legal basis to bring legal action.
functus officio	Having performed his office	A person, court, statute, or legal document that has no legal authority, because its original legal purpose has been fulfilled.
generalia specialibus non derogant	The general does not detract from the specific.	Specifies that a certain matter of law be covered by the most specific laws pertaining, in the event that broader laws conflict with the specific one.
gravamen	Things weighing down	The basic element or complaint of a lawsuit.
guardian ad litem	Guardian for the case.	An independent party appointed in family law disputes to represent parties that cannot represent themselves, such as minors, developmentally disabled, or elderly.
habeas corpus	May you have the body	A writ used to challenge the legality of detention. Orders the detaining party to "have the (living) body" of the detained brought before the court where the detention will be investigated.
hostis humani generis	Enemy of the human race	A party considered to be the enemy of all nations, such as maritime pirates.

i.e.	That is	Abbreviation of *id est*, meaning "that is", in the sense of restating something that may not have been clear.
ibid.	In the same place	Abbreviation of *ibidem*, meaning "in the same place. Used when citing sources, to indicate the cited source came from the identical location as the preceding one.
idem	The same	Used in citations to indicate the cited source came from the same source as the preceding one, though not necessarily the same page or location. C.f. *ibid.*
ignorantia juris non excusat	Ignorance of the law does not excuse	A principle that states that not having knowledge of a law is not an excuse for breaking it.
imprimatur	Let it be printed.	An authorization for a document to be printed. Used in the context of approval by a religious body or other censoring authority.
in absentia	In absence	A legal proceeding conducted without the presence of one party is said to be conducted *in absentia*, e.g., trial *in absentia* or being sentenced *in absentia*.
In articulo mortis	at the moment of death	Often used in probate law, as well as for testimony in the sense of a dying declaration.
in camera	In the chamber	Conducted in private, or in secret. The opposite of in open court.
in curia	In court	Conducted in open court. The opposite of *in camera*.
in esse	In existence	Actually existing in reality. Opposite of *in posse*.
in extenso	In the extended	In extended form, or at full length. Often used to refer to publication of documents, where it means the full unabridged document is published.
in extremis	In the extreme	In extreme circumstances. Often used to refer to "at the point of death."
in flagrante	In blazing	Caught in the actual act of committing a

delicto	offense	crime. Often used as a euphemism for a couple caught in the act of sexual intercourse, though it technically refers to being "caught in the act" of any misdeed.
in forma pauperis	In the manner of a pauper	Someone unable to afford the costs associated with a legal proceeding. As this will not be a barrier to seeking justice, such persons are given *in forma pauperis* status (usually abbreviated IFP), wherein most costs are waived or substantially reduced.
in futuro	In the future	Refers to things to come, or things that may occur later but are not so now. As in *in futuro* debts, i.e. debts which become due and payable in the future.
in haec verba	In these words	Used when including text in a complaint verbatim, where its appearance in that form is germane to the case, or is required to be included.
in limine	At the threshold	A motion to a judge in a case that is heard and considered outside the presence of the jury.
in loco parentis	In the place of a parent	Used to refer to a person or entity assuming the normal parental responsibilities for a minor. This can be used in transfers of legal guardianship, or in the case of schools or other institutions that act in the place of the parents on a day-to-day basis.
in mitius	In the milder	A type of retroactive law that decriminalizes offenses committed in the past. Also known as an amnesty law.
in omnibus	In all	Used to mean "in every respect." Something applying to every aspect of a situation.
in pari delicto	In equal offense	Used when both parties to a case are equally at fault.
in pari materia	In the same matter	Refers to a situation where a law or statute may be ambiguous, and similar

		laws applying to the matter are used to interpret the vague one.
in personam	In person	Used in the context of "directed at this particular person", refers to a judgement or subpoena directed at a specific named individual. C.f. *in rem*.
in pleno	In full	
in prope persona	On one's own person	One who represents themselves in court without the [official] assistance of an attorney.
in propria persona	In one's own proper person	Alternate form of *in prope persona*. One who represents themselves in court without the [official] assistance of an attorney.
in re	In the matter [of]	Used in the title of a decision or comment to identify the matter they are related to; usually used for a case where the proceeding is *in rem* or *quasi in rem* and not *in personam* (e.g. probate or bankrupt estate, guardianship, application for laying out a public highway) and occasionally for an *ex parte* proceeding (e.g. application for a writ of *habeas corpus*).
in rem	About a thing	Used in the context of a case against property, as opposed to a particular person. See also in rem jurisdiction. C.f. *in personam*.
in situ	In position	Often used in the context of decisions or rulings about a property or thing "left in place" after the case as it was before.
in solidum	For the whole	Jointly and severally; where a group of persons share liability for a debt, such as co-signers to a loan, the debtor can sue a single party *in solidum*, that is, to recover the entire amount owed.
in terrorem	In order to frighten	A warning or threat to sue, made in the hopes of convincing the other party to take action to avoid a lawsuit.
in terrorem	Clause "in order	A clause in a will that threatens any

clause	to frighten"	party who contests the will with being disinherited. Also called a no-contest clause.
in toto	In total	
indicia	Indications	Often used in copyright notices. Refers to distinctive markings that identify a piece of intellectual property.
infra	Below or Under	
innuendo	By nodding	An intimation about someone or something, made indirectly or vaguely suggesting the thing being implied. Often used when the implied thing is negative or derogatory.
inter alia	Among others	Used to indicate an item cited has been pulled from a larger or more complete list.
inter arma enim silent leges	For among arms, the laws fall silent	A concept that during war, many illegal activities occur. Also taken to mean that in times of war, laws are suppressed, ostensibly for the good of the country.
inter rusticos	Among rustics	Refers to contract, debts, or other agreements made between parties who are not legal professionals.
inter se	Amongst themselves	Refers to obligations between members of the same group or party, differentiated from the whole party's obligations to another party.
inter vivos	Between the living	Refers to a gift or other non-sale transfer between living parties. This is in contrast to a will, where the transfer takes effect upon one party's death.
intra	Within	
intra fauces terra	Within the jaws of the land	This term refers to a nation's territorial waters.
intra legem	Within the law	Used in various contexts to refer to the legal foundation for a thing.
intra vires	Within the powers	Something done which requires legal authority, and the act is performed accordingly. C.f. *ultra vires*.

ipse dixit	He himself said it	An assertion given undue weight solely by virtue of the person making the assertion.
ipsissima verba	The very words	Referring to a document or ruling that is being quoted by another.
ipso facto	By the fact itself	Used in the context that one event is a direct and immediate consequence of another. "In and of itself."
ipso jure	the law itself	By operation of law
iudex non calculat	The judge does not calculate	A principle that calculation errors made by the court do not invalidate the judgement on a technicality. Also taken to mean that the judge does not tally up the arguments of both sides and decide in favour of the more numerous, but rather weighs all of the evidence without regard to the number of arguments made.
jura novit curia	The court knows the law	Concept that parties to a case do not need to define how the law applies to their case. The court is solely responsible for determining what laws apply.
jurat	(He) swears	Appears at the end of an affidavit, where the party making the affirmation signs the oath, and the information on whom the oath was sworn before is placed.
juris et de jure	Of law, and from law	Irrebuttable or conclusive presumptions of law. One cannot argue against, or try to otherwise refute these.
jus	Law, right	Essentially: law.
jus accrescendi	Right of survivorship; right of accrual	(1) Right of survivorship: In property law, on the death of one joint tenant, that tenant's interest passes automatically to the surviving tenant(s) to hold jointly until the estate is held by a sole tenant. The only way to defeat the right of survivorship is to sever the joint tenancy during the lifetime of the parties, the right of survivorshop takes priority over

		a will or interstate accession rules. (2) (Civil law) right of accrual: Right of the beneficiary to succeed proportionately to a benefit that another beneficiary in the same will cannot or does not want to take.
jus ad bellum	Laws to war	Refers to legalities considered before entering into a war, to ensure it is legal to go to war initially. Not to be confused with *ius in bello* (q.v.), the "laws *of* war" concerning how war is carried out.
jus civile	Civil law	A codified set of laws concerning citizenry, and how the laws apply to them.
jus cogens	Compelling law	Internationally agreed laws that bear no deviation, and do not require treaties to be in effect. An example is law prohibiting genocide.
jus commune	Common law	Not actually referring to common law, this term refers to common doctrine and principles of civil law that underlie all aspects of the legal system.
jus gentium	Law of nations	Customary law followed by all nations. Nations being at peace with one another, without having to have an actual peace treaty in force, would be an example of this concept.
jus in bello	Law in war	Laws governing the conduct of parties in war.
jus inter gentes	Law between the peoples	Laws governing treaties and international agreements.
jus naturale	Natural law	Laws common to all people, that the average person would find reasonable, regardless of their nationality.
jus primae noctis	Right of the first night	Supposed right of the lord of an estate to take the virginity of women in his estate on their wedding night.
jus quaesitum tertio	Right to third-party relief	Right of a third-party beneficiary to sue in order to enforce a third-party contract (i.e., the opposite of privity of contract).

jus sanguinis	Right of blood	Social law concept wherein citizenship of a nation is determined by having one or both parents being citizens.
jus soli	Right of soil	Social law concept wherein citizenship of a nation is determined by place of birth.
jus tertii	Law of the third	Arguments made by a third party in disputes over possession, the intent of which is to question one of the principal parties' claims of ownership or rights to ownership.
lacunae	Void, gap	A situation arising that is not covered by any law. Generally used in International Law, as all countries codify according to their own systems of law.
leges humanae nascuntur, vivunt, moriuntur	The laws of man are born, live, and die	Illustrates that laws are made, are in force for a period, and then become obsolete.
lex commissoria		Forfeiture clause for non-performance of a contract, especially (1) a provision that a pledge shall be forfeited if a loan is defaulted, or (2) a condition that money paid on a contract of sale shall be forfeited and the sale rescinded if outstanding payments are defaulted. Also known as a *pactum commissorium*.
lex communis	Common law.	Alternate form of jus commune. Refers to common facets of civil law that underlie all aspects of the law.
lex lata	The law borne	The law as it has been enacted
lex loci	The law of the place	The law of the country, state, or locality where the matter under litigation took place. Usually used in contract law, to determine which laws govern the contract.
lex posterior derogat priori	Later law removes the earlier	More recent law overrules older ones on the same matter.
lex retro non agit	The law does not	A law cannot make something illegal

	operate retroactively	that was legal at the time it was performed. See ex post facto law.
lex scripta	Written law	Law that specifically codifies something, as opposed to common law or customary law.
lex specialis derogat legi generali	Specific law takes away from the general law	Where several laws apply to the same situation, the more specific one(s) take precedence over more general ones.
liberum veto	Free *veto*	An aspect of a unanimous voting system, whereby any member can end discussion on a proposed law.
lingua franca	The Frankish language	A language common to an area that is spoken by all, even if not their mother tongue. Term derives from the name given to a common language used by traders in the Mediterranean basin dating from the Middle Ages.
lis alibi pendens	Lawsuit elsewhere pending	Refers to requesting a legal dispute be heard that is also being heard by another court. To avoid possibly contradictory judgements, this request will not be granted.
lis pendens	Suit pending	Often used in the context of public announcements of legal proceedings to come. Compare *pendente lite* (below).
locus	Place	
locus delicti	Place of the crime	Shorthand version of *Lex locus delcti commissi*. The "scene of the crime".
locus in quo	The place in which	The location where a cause of action arose.
locus poenitentiae	Place of repentance	When one party withdraws from a contract before all parties are bound.
locus standi	Place of standing	The right of a party to appear and be heard before a court.
mala fide	(In) bad faith	A condition of being fraudulent or deceptive in act or belief.
maleficia propositis distinguuntur	evil acts are distinguished from (evil)	evil acts are distinguished from evil purposes crimes are distinguished by the intention

	purposes/crimes are distinguished by evil intent	
malum in se	Wrong in itself	Something considered a universal wrong or evil, regardless of the system of laws in effect.
malum prohibitum	Prohibited wrong	Something wrong or illegal by virtue of it being expressly prohibited, that might not otherwise be so.
mandamus	We command	A writ issue by a higher court to a lower one, ordering that court or related officials to perform some administrative duty. Often used in the context of legal oversight of government agencies.
mare clausum	Closed sea	A body of water under the jurisdiction of a state or nation, to which access is not permitted, or is tightly regulated.
mare liberum	Open sea	A body of water open to all. Typically a synonym for International Waters, or in other legal parlance, the "High Seas".
mens rea	Guilty mind	One of the requirements for a crime to be committed, the other being *actus reus*, the guilt act. This essentially is the basis for the notion that those without sufficient mental capability cannot be judged guilty of a crime.
modus operandi	Manner of operation	A person's particular way of doing things. Used when using behavioural analysis while investigating a crime. Often abbreviated "M.O."
mora accipiendi	Delay of creditor	Delay in payment or performance in the part of the creditor or obligor
mora solvendi	delay of debtor	Delay in payment or performance in the part of the debtor or the oblige
mortis causa	In contemplation of death	Gift or trust that is made in contemplation of death
mos pro lege	Custom for law	That which is the usual custom has the force of law.
motion in limine	Motion at the	Motions offered at the start of a trial,

	start	often to suppress or pre-allow certain evidence or testimony.
mutatis mutandis	Having changed [the things that] needed to be changed	A caution to a reader when using one example to illustrate a related but slightly different situation. The caution is that the reader must adapt the example to change what is needed for it to apply to the new situation.
ne exeat	Let him not exit [the republic]	Shortened version of *ne exeat repiblica*: "let him not exit the republic". A writ to prevent one party to a dispute from leaving (or being taken) from the court's jurisdiction.
ne bis in idem	Not twice in the same	Prohibition against double jeopardy. A legal action cannot be brought twice for the same act or offense.
negotiorum gestio	Management of estate	Quasi-contractual obligation arising from good works affecting other people, obliging the benefited party (*dominus negotii*) to reimburse the *gestor* for the cost that was used in doing good works
nemo auditur propriam turpitudinem allegans	no one can be heard, who invokes his own guilt	Nobody can bring a case that stems from their own illegal act
nemo dat quod non habet	no one gives what he does not have	If someone purchases something that the seller has no right to (such as stolen property), the purchaser will likewise have no legal claim to the thing bought.
nemo debet esse iudex in propria	no one shall be a judge in his own case	In the past it was thought that it included just two rules namely (1) *nemo debet esse judex in propria causa* (no one shall be a judge in his own case)
nemo judex in sua causa	no one shall be a judge in his own case	Prevents conflict of interest in courts. Often invoked when there is really no conflict, but when there is even the appearance of one.
nemo plus iuris ad alium transferre potest	no one can transfer a greater right than he	A purchaser of stolen goods will not become the rightful owner thereof, since the seller himself was not the owner to

quam ipse habet	himself has	begin with.
nihil dicit	he says nothing	A judgement rendered in the absence of a plea, or in the event one party refuses to cooperate in the proceedings.
nisi	Unless	A decree that does not enter into force unless some other specified condition is met.
nisi prius	unless first	Refers to the court of original jurisdiction in a given matter.
nolle prosequi	Not to prosecute	A statement from the prosecution that they are voluntarily discontinuing (or will not initiate) prosecution of a matter.
nolo contendere	I do not wish to dispute	A type of plea whereby the defendant neither admits nor denies the charge. Commonly interpreted as "No contest."
non adimpleti contractus	Of a non-completed contract	In the case where a contract imposes specific obligations on both parties, one side cannot sue the other for failure to meet their obligations, if the plaintiff has not themselves met their own.
non compos mentis	not in possession of [one's] mind	not having mental capacity to perform some legal act
non constat	it is not certain	Refers to information given by one who is not supposed to give testimony, such as an attorney bringing up new information that did not come from a witness. Such information is typically nullified.
non est factum	It is not [my] deed	A method whereby a signatory to a contract can invalidate it by showing that his signature to the contract was made unintentionally or without full understanding of the implications.
non est inventus	He is not found	Reported by a sheriff on writ when the defendant cannot be found in his county or jurisdiction.
non faciat malum, ut inde veniat bonum	not to do evil that good may come	Performing some illegal action is not excused by the fact that a positive result came therefrom. Often used to argue that some forms of expression, such as

		graffiti or pornographic films, cannot be given the protection of law (e.g. copyright) as they are or may be considered illegal or morally reprehensible.
non liquet	it is not clear	A type of verdict where positive guilt or innocence cannot be determined. Also called "not proven" in legal systems with such verdicts.
non obstante verdicto	notwithstanding the verdict	A circumstance where the judge may override the jury verdict and reverse or modify the decision.
novus actus interveniens	a new action coming between	a break in causation (and therefore probably liability) because something else has happened to remove the causal link
noscitur a sociis	it is known by friends	An ambiguous word or term can be clarified by considering the whole context in which it is used, without having to define the term itself.
nota bene	note well	A term used to direct the reader to cautionary or qualifying statements for the main text.
nudum pactum	naked promise	An unenforceable promise, due to the absence of consideration or value exchanged for the promise.
nulla bona	no goods	Notation made when a defendant has no tangible property available to be seized in order to comply with a judgement.
nulla poena sine lege	no penalty without a law	One cannot be prosecuted for doing something that is not prohibited by law.
nullum crimen, nulla poena sine praevia lege poenali	no crime, no punishment without a previous penal law	One cannot be prosecuted for doing something that was not prohibited by law at the time and place it was committed, notwithstanding laws made since that time. A form of prohibition on retroactive laws.
nunc pro tunc	now for then	An action by a court to correct a previous procedural or clerical error.
obiter dictum	a thing said in	in law, an observation by a judge on

	passing	some point of law not directly relevant to the case before him, and thus neither requiring his decision nor serving as a precedent, but nevertheless of persuasive authority. In general, any comment, remark or observation made in passing
onus probandi		Burden of proof
pacta sunt servanda	agreements must be kept	A fundamental principle of law
par delictum	equal fault	Used when both parties to a dispute are at fault
parens patriae	parent of the nation	Refers to the power of the State to act as parent to a child when the legal parents are unable or unwilling.
pari passu	on equal footing	Equal ranking, equal priority (usually referring to creditors)
pater familias	father of the family	The head of household, for purposes of considering the rights and responsibilities thereof. (Civil law) *bonus paterfamilias*: a standard of care equivalent to the common law ordinary reasonable man.
pendente lite	while the litigation is pending	Court orders used to provide relief until the final judgement is rendered. Commonly used in divorce proceedings. The adverbial form of *lis pendens* (above).
per capita	by head	dividing money up strictly and equally according to the number of beneficiaries
per contra	by that against	Legal shorthand for "in contrast to"
per curiam	through the court	A decision delivered by a multi-judge panel, such as an appellate court, in which the decision is said to be authored by the court itself, instead of situations where those individual judges supporting the decision are named.
per incuriam	by their neglect	A judgement given without reference to precedent.
per minas	through threats	Used as a defence, when illegal acts

		were performed under duress
per proxima amici	by or through the next friend	Employed when an adult brings suit on behalf of a minor, who was unable to maintain an action on his own behalf at common law.
per quod	by which	Used in legal documents in the same sense as "whereby". A *per quod* statement is typically used to show that specific acts had consequences which form the basis for the legal action.
per se	by itself	Something that is, as a matter of law.
per stirpes	by branch	An estate of a decedent is distributed *per stirpes*, if each branch of the family is to receive an equal share of an estate.
periculum in mora	danger in delay	A condition given to support requests for urgent action, such as a protective order or restraining order.
persona non grata	unwelcome person	A person who is officially considered unwelcome by a host country in which they are residing in a diplomatic capacity. The person is typically expelled to their home country.
posse comitatus	power of the county	A body of armed citizens pressed into service by legal authority, to keep the peace or pursue a fugitive.
post mortem	after death	Refers to an autopsy, or as a qualification as to when some event occurred.
post mortem auctoris	after the author's death	Used in reference to intellectual property rights, which usually are based around the author's lifetime.
praetor peregrinus	magistrate of foreigners	The Roman praetor (magistrate) responsible for matters involving non-Romans.
prima facie	at first face	A matter that appears to be sufficiently based in the evidence as to be considered true.
prior tempore potior iure	earlier in time, stronger in law	(1) A legal principle that older laws take precedent over newer ones. Another

		name for this principle is *lex posterior*. (2) (Scots law, civil law), usually translated as "prior in time, superior in right", the principle that someone who registers (a security interest) earlier therefore ranks higher than other creditors.
prius quam exaudias ne iudices	before you hear, do not judge	
probatio vincit praesumptionem	proof overcomes presumption	
pro bono	For good	Professional work done for free.
pro bono publico	For the public good	
pro forma	as a matter of form	Things done as formalities.
pro hac vice	for this turn	Refers to a lawyer who is allowed to participate (only) in a specific case, despite being in a jurisdiction in which he has not been generally admitted
pro per	Abbreviation of propria persona, meaning "one's own person"	Representing oneself, without counsel. Also known as *pro se* representation.
pro rata	from the rate	A calculation adjusted based on a proportional value relevant to the calculation. An example would be a tenant being charged a portion of a month's rent based on having lived there less than a full month. The amount charged would be proportional to the time occupied.
pro se	for himself	Representing oneself, without counsel. Also known as *pro per* representation.
pro tanto	for so much	A partial payment of an award or claim, based on the defendant's ability to pay.
pro tem	Abbreviation of *pro tempore*, meaning "for the	Something, such as an office held, that is temporary.

	time being"	
pro tempore	for the time being	Something, such as an office held, that is temporary.
propria persona	proper person	Refers to one representing themselves without the services of a lawyer. Also known as *pro per* representation.
prout patet per recordum	as appears in the record	Used to cite something that has already been admitted into the record.
qua	which; as	In the capacity of
quareitur	it is sought	The question is raised. Used to declare that a question is being asked in the following verbiage.
quaere	Query	Used in legal drafts to call attention to some uncertainty or inconsistency in the material being cited.
quantum	how much	
quantum meruit	as much as it deserves; as much as she or he has earned[3]	In contract law, a quasi-contractual remedy that permits partial reasonable payment for an incomplete piece of work (services and/or materials), assessed proportionately, where no price is established when the request is made. In contract law, and in particular the requirement for consideration, if no fixed price is agreed upon for the service and/or materials, then one party would request a reasonable price for the said services and/or materials at the end of the job. A common example would be a plumber requested to fix a leak in the middle of the night.
quantum valebant	as much as they were worth	Under Common Law, i.e. a remedy to compute reasonable damages when a contract has been breached—the implied promise of payment of a reasonable price for goods. In contract law, for requirements of consideration, reasonable worth for goods delivered. Usage: *quantum meruit* has replaced

		quantum valebant in consideration; in the case of contract remedy, quantum valebant is being used less, and could be considered to be obsolete.
quasi	as if	Resembling or being similar to something, without actually being that thing.
qui facit per alium facit per se	who acts through another, acts himself	One who delegates a task to another, takes full responsibility for the performance of that act as if he himself had done it. Basis for the law of agency
qui tam	Abbreviation of *qui tam pro domino rege quam pro se ipso in hac parte sequitur*, meaning "who pursues in this action as much for the king as himself".	In a *qui tam* action, one who assists the prosecution of a case is entitled to a proportion of any fines or penalties assessed.
quid pro quo	this for that	An equal exchange of goods or services, or of money (or other consideration of equal value) for some goods or services.
quo ante	as before	Returning to a specific state of affairs which preceded some defined action.
quo warranto	by what warrant?	A request made to someone exercising some power, to show by what legal right they are exercising that power. A type of writ.
quoad hoc	as to this	Used to mean "with respect to" some named thing, such as when stating what the law is in regards to that named thing.
quod est necessarium est licitum	What is necessary is lawful	
R	Rex or Regina	King or Queen. In British cases, will see R v Freeman meaning Regina against Freeman. Changes with King or Queen

		on throne at time.
ratio decidendi	Reason for the decision	The point in a legal proceeding, or the legal precedent so involved, which led to the final decision being what it was.
ratio scripta	written reason	The popular opinion of Roman law, held by those in the Medieval period.
rationae soli	by reason of the soil	"Certain rights may arise by virtue of ownership of the soil upon which wild animals are found."
rebus sic stantibus	things thus standing	A qualification in a treaty or contract, that allows for nullification in the event fundamental circumstances change.
reddendo singula singulis	referring solely to the last	The canon of construction that in a list of items containing a qualifying phrase at the end, the qualifier refers only to the last item in the list.
res	thing, matter, issue, affair	
res communis	common to all	Property constructs like airspace and water rights are said to be res communis - that is, a thing common to all, and that could not be the subject of ownership. With airspace, the difficulty has been to identify where the fee simple holder's rights to the heavens end. Water is a bit more defined — it is common until captured.
res gestae	things done	Differing meaning depending on what type of law is involved. May refer to the complete act of a felony, from start to finish, or may refer to statements given that may be exempt from hearsay rules.
res ipsa loquitur	the thing speaks for itself	used in tort law when there is no proof of what caused the harm, but it is most likely only the thing that could have caused the harm
res judicata	a matter judged	A matter that has been finally adjudicated, meaning no further appeals or legal actions by the involved parties is now possible.

res nullius	nobody's thing	Ownerless property or goods. Such property or goods are able and subject to being owned by anybody.
res publica	public affair	All things subject to concern by the citizenry. The root of the word republic.
res publica christiana	Christian public affair	All things of concern to the worldwide body of Christianity
respondeat superior	let the master answer	A concept that the master (e.g. employer) is responsible for the actions of his subordinates (e.g. employees).
restitutio in integrum	total reinstatement	(1) Restoration of something, such as a building or damaged property, to its original condition. (2) In contract law, when considering breach of contract and remedies, to restore a party to an original position.
rex non potest peccare	The king can do no wrong	Used to describe the basis for sovereign immunity
salus populi suprema lex esto	The good of the people shall be the supreme law	Used variously as a motto, a reminder, or a notion of how the law and governments in general should be.
scandalum magnatum	scandal of the magnates	Defamation against a peer in British law. Now repealed as a specific offense.
scienter	knowingly	Used when offenses or torts were committed with the full awareness of the one so committing.
scire facias	let them know	A writ, directing local officials to officially inform a party of official proceedings concerning them.
scire feci	I have made known	The official response of the official serving a writ of *scire facias*, informing the court that the writ has been properly delivered.
se defendendo	self-defense	The act of defending one's own person or property, or the well-being or property of another.
seriatim	in series	Describes the process in which the court hears assorted matters in a specific order. Also refers to an occasion where a

		multiple-judge panel will issue individual opinions from the members, rather than a single ruling from the entire panel.
sic utere tuo ut alienum non laedas	use your property so as not to injure that of your neighbours	While an individual is entitled to the use and enjoyment of one's estate, the right is not without limits. Restrictions can give rise to tort actions include trespass, negligence, strict liability, and nuisance.
sine die	without day	Used when the court is adjourning without specifying a date to re-convene. See also adjournment sine die.
sine qua non	without which, nothing	Refers to some essential event or action, without which there can be no specified consequence.
situs	the place	Used to refer to laws specific to the location where specific property exists, or where an offense or tort was committed.
solutio indebiti	performance of something not due	Undue performance or payment, obliging the enrichee (*accipiens*) to return the undue payment or compensate the impoverishee (*solvens*) for the undue performance
stare decisis	To stand by [things] decided.	The obligation of a judge to stand by a prior precedent.
status quo *status quo ante* *statu quo*	the state in which	In contract law, in a case of innocent representation, the injured party is entitled to be replaced in *statu quo*. Note the common usage is *status quo* from the Latin status quo ante, the "state in which before" or "the state of affairs that existed previously."
stratum	a covering, from neuter past participle of sternere, to spread	1) In property law, condominiums have said to occupy stratum many stories about the ground.[2] 2) *Stratum* can also be a societal level made up of individuals with similar status of social, cultural or economic nature.

		3) *Stratum* can refer to classification in an organized system along the lines of layers, levels, divisions, or similar grouping.
sua sponte	of its own accord	Some action taken by the public prosecutor or another official body, without the prompting of a plaintiff or another party. (compare *ex proprio motu*, *ex mero motu* which are used for courts)
sub judice	under the judge	Refers to a matter currently being considered by the court.
sub modo	subject to modification	Term in contract law that allows limited modifications to a contract after the original form has been agreed to by all parties.
sub nomine	under the name	Abbreviated *sub nom.*; used in case citations to indicate that the official name of a case changed during the proceedings, usually after appeal (e.g., *rev'd sub nom.* and *aff'd sub nom.)*
sub silentio	under silence	A ruling, order, or other court action made without specifically stating the ruling, order, or action. The effect of the ruling or action is implied by related and subsequent actions, but not specifically stated.
subpoena	under penalty	A writ compelling testimony, the production of evidence, or some other action, under penalty for failure to do so.
subpoena ad testificandum	Under penalty to testify	An order compelling an entity to give oral testimony in a legal matter.
subpoena duces tecum	bring with you under penalty	An order compelling an entity to produce physical evidence or witness in a legal matter.
suggestio falsi	false suggestion	A false statement made in the negotiation of a contract.
sui generis	of its own kind/genus	Something that is unique amongst a group.
sui juris	of his own right	Refers to one legally competent to

		manage his own affairs. Also spelled *sui iuris*.
suo motu	of its own motion	Refers to a court or other official agency taking some action on its own accord (synonyms: *ex proprio motu*, *ex mero motu*). Similar to *sua sponte*.
supersedeas	refrain from	A bond tendered by an appellant as surety to the court, requesting a delay of payment for awards or damages granted, pending the outcome of the appeal.
suppressio veri	suppression of the truth	Wilful concealment of the truth when bound to reveal it, such as withholding details of damage from an auto accident from a prospective buyer of the car in that accident.
supra	Above	Used in citations to refer to a previously cited source.
tantum et tale	thus and such	(Scots law) "as is", to disclaim implied warranties, as in to purchase or convey something *tantum et tale*
terra nullius	no one's land	Land that has never been part of a sovereign state, or land which a sovereign state has relinquished claim to.
trial de novo	trial anew	A completely new trial of a matter previously judged. It specifically refers to a replacement trial for the previous one, and not an appeal of the previous decision.
trinoda necessitas	three-knotted need	Refers to a threefold tax levied on Anglo-Saxon citizens to cover roads, buildings, and the military.
uberrima fides	most abundant faith	Concept in contract law specifying that all parties must act with the utmost good faith.
ultra posse nemo obligatur	no one is obligated (to do) more than he can	Specifies that one should do what he can to support the community, but since everyone has different levels of ability, it cannot be expected that all will perform the same.

ultra vires	beyond the powers	An act that requires legal authority to perform, but which is done without obtaining that authority.
universitas personarum	Totality of people	Aggregate of people, body corporate, as in a college, corporation, or state
universitas rerum	Totality of things	Aggregate of things
uno flatu	in one breath	Used to criticize inconsistencies in speech or testimony, as in: one says one thing, and in the same breath, says another contradictory thing.
uti possidetis	as you possess	Ancient concept regarding conflicts, wherein all property possessed by the parties at the conclusion of the conflict shall remain owned by those parties unless treaties to the contrary are enacted.
uxor	Wife	Used in documents in place of the wife's name. Usually abbreviated *et ux*.
vel non	or not	Used when considering whether some event or situation is either present or it is not.
veto	I forbid.	The power of an executive to prevent an action, especially the enactment of legislation.
vice versa	the other way around	Something that is the same either way.
vide	See	Used in citations to refer the reader to another location.
videlicet	Contraction of *videre licet*, meaning "it is permitted to see"	Used in documents to mean "namely" or "that is". Usually abbreviated *viz*.
vinculum juris	the chains of the law	Something which is legally binding.
vis major	greater or superior force	Force majeure, specifically events over which no humans have control, and so cannot be held responsible. Equivalent to an "Act of God". Compare *casus*

		fortuitus (see above).
viz.	Abbreviation of videlicet	Namely
volenti non fit injuria	injury is not done to the willing	Notion that a person cannot bring a claim against another for injury, if said person willingly placed himself in a situation where they knew injury could result.
vigilantibus non dormientibus aequitas subvenit	Equity aids the vigilant, not the sleeping	Concept that if an opposing party unreasonably delays bringing an action, that it is no longer considered just to hear their claim, due to fundamental changes in circumstance brought upon by their delay.

4.0 CONCLUSION

Although Latin has been termed a 'dead' language, it is however remains very much alive as a highly significant language, especially in legal discourse. Researchers would do well to acquaint themselves with the various Latin terms and phrases to further aid their research.

5.0 SUMMARY

In this unit, you have learnt to master some examples of Latin terms which are used very widely in legal research, including some extremely common abbreviations.

6.0 TUTOR-MARKED ASSIGNMENT

1. Explain the importance of Latin terms and phrases in Legal research.

7.0 REFERENCES/FURTHER READING

1. Yogis, John (1995), *Canadian Law Dictionary* (4th ed.). Barron's Education Series.
2. Benson, Marjorie L.; Bowden, Marie-Ann; Newman, Dwight (2008). *Understanding Property: A Guide* (2nd ed.). Thompson Carswell.
3. Willes, John A; Willes, John H. (2012). *Contemporary Canadian Business Law: Principles and Cases* (9th ed.). McGraw-Hill Ryerson.

4. *Latin for Lawyers*. E. Hilton Jackson (editor) 1915. (abridged, reprinted ed.). The Lawbook Exchange, Ltd. p. 189. ISBN 9780963010643 citing Jenk. Cent. 290.