

**TOWARDS EFFECTIVE LEGAL WRITING IN NIGERIA**

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**ABSTRACT**

This article examines legal writing – an important module in legal training in law faculties of Nigerian universities, albeit the teaching of legal research and writing have not been accorded the high priority they deserve. It examines how to write an effective legal research report, with the general assumption that prior legal research has been effectively and methodologically conducted. It identifies the lack of teaching of legal research methods/methodology, especially at the undergraduate level, as a major impediment to effective legal academic writing in Nigeria. The article argues that the inadequacy in the teaching of legal research methods and methodology in the faculties of law of Nigerian universities, to a large extent, has negative impact on the aptitude and quality of legal writing by the country's legal academics, as well as judges, legal draftsmen and law advocates. The article puts forward three recommendations that are aimed at addressing the impediments to effective legal writing in Nigeria.

Keywords: Legal research, legal academic writing, legal education, Nigeria

**1. INTRODUCTION**

Knowledge is usually equated with the power to excel. Thus, there is the need to acquire knowledge as a fundamental requirement of every enterprise. It is also essential that knowledge acquired should be adequately transferred and prudently applied for the sustenance and stability of any system. This underscores the need for quality research to enable the discovery of knowledge. Yet, for knowledge to be meaningful, it should not only be transferrable, it must be capable of being applied to find solutions to problems. Herein lies the efficacy, or the lack of it, of research. Legal knowledge is transferred and acquired through legal education – the education based on the principles, practices and theory of law which provides the knowledge necessary for the acquisition of specialised skills by aspiring lawyers, or the update of lawyers. There are two stages of legal education in Nigeria: (i) academic legal education and (ii) vocational or practical legal education. While the law faculties of Nigerian universities have the responsibility for the former, the Council of Legal Education, through the Nigerian Law School, is vested with the latter responsibility of training persons who wish to become members of the legal profession (Legal Education (Consolidation, etc) Act, 2004, ss. 1(2) and 5(b)). In recent years, the system of legal education in Nigeria has, rightly so, come under intense and constructive criticisms. These criticisms have been particularly directed at academic legal education (Ojukwu, 1998; Muhammad, 2015: 223-224), which is often criticised for its inefficient pedagogy, focusing more on pure theories of 'substantive law without the [sufficient] application of skills' (Muhammad, 2015: 224), as well as the deficit in teaching and research facilities in the law faculties of Nigerian universities (Worika, 2004: 362). These factors, among others, have

been identified as major reasons for the continuous decline in the standard of academic legal education in Nigeria (Ojukwu, 2015: 24-7, 33-4), including the dearth in research and quality research output.

Legal research and writing are important modules in the curriculum of academic legal education in Nigeria. Legal research involves the systematic investigation towards ascertaining the state of the law, and in the words of Vibhute and Anynalem (2009: 22), 'with a view to making advancement in the law'. Legal writing, on the other hand, comprises the methods of synthesising authorities or research resources to produce a research output or report (Garner, 2004: 913). Legal writing is the last stage in the legal research process, as any research endeavour is incomplete without the report (Vibhute and Anynalem, 2009: 49-60). This is where the knowledge acquired from the teaching of research methods and methodology is put to practical use. It is this stage of the legal research process that is the focus of this article. Legal research and legal writing are important skills especially required by members of the legal academy (law teachers and law students) to enable them, first and foremost, to find solutions to legal problems, as part of their professional/academic commitment (Vibhute and Anynalem, 2009: 40). Secondly, legal research and writing skills equip members of the legal academy with the requisite capacity to discharge their obligations to the society. The failure to acquire these skills make certain the fact that members of the legal academia will suffer serious disabilities in their professional/academic lives, 'for they will not be able to get some vital information that they [are] require[d] to have and of which they will not possess' (Arwa, 1998: 16). This is an unfortunate situation for any member of the legal academy to find herself, because among all the categories of legal researchers – legislators, judges, law advocates, and legal academics – who are involved in legal research and legal writing, legal academics have the greatest comparative aptitude and reasons for undertaking legal research and legal writing (Vibhute and Anynalem, 2009: 34-43). This is the case because in their professional endeavours, legislators, judges and law advocates write in law, whereas legal academics write about law in order to develop doctrines through the application of doctrinal and non-doctrinal legal research methods (Jovanović); to clarify the state of the law; to take a position on the state of the law; to provide alternatives where there is a conflict in the law; to make recommendations where there are gaps in the law; and to proffer solutions on how to improve the law (Vibhute and Anynalem, 2009: 97-8), in ways that will be beneficial to policy makers and the society at large.

Both language and structure are brought to bear when engaging in legal academic writing. Therefore, legal academic writers must have excellent grasp of the stylistic and mechanical aspects of legal writing, as well as the fundamentals of the English grammar and its usage. Legal academic writers must also be able to express ideas in a clear, organised, concise, and logical manner, as any writing, according to Dernbach and Singleton (1981:91), 'that interferes with the communication of your thoughts, no matter how good it sounds, is wrong.' By the time law students in the law faculties of Nigerian universities are in their

penultimate semester, they are considered to be almost ready for the award of the bachelor of laws (LL.B) degree. At this point, they are expected to know how to read and write 'in law'. And for this reason, they are required to undertake a mini-legal research project and produce research reports otherwise referred to as long essays. Postgraduate law students are required to undertake more comprehensive legal research and produce research reports in the form of dissertations/theses. The research reports are required to be written in English which is the official language in Nigeria (*Ojengbede v Esan* [2001] 18 N.W.L.R (pt. 746) 771, 790; *Lawson v Afani Construction Co. Ltd.* [2002] 2 N.W.L.R (pt. 752) 585).

Before writing the legal research report, law students are expected to have gone through the research planning and research implementation phases. The major challenges confronting many in the legal academy in Nigeria, especially law students, in relation to their chosen research, the research process, as well as how to write the research report, stem from the lack of critical/practical thinking and effective written communication skills (Worika, 2004: 353). One consolation is that these skills can be learned. A final year undergraduate law student who was supposed to be in the planning/implementation stage of her research once asked the present writer the following questions: What is the difference between the problem statement of a research and purpose of the study? Are they not one and the same thing? It is obvious that many law students are not able to write fairly good legal research reports. This problem is not only applicable to undergraduate students, as many postgraduate students have great difficulty preparing their research plans, as well as writing their dissertations/theses. This situation is troubling and continues to worsen to the extent that many law students now expect to graduate as a matter of course, whether or not they are able to carry out satisfactory legal research and write a research report. It should be noted that this problem is not limited to the Nigerian legal academy; it permeates every field of academic learning in Nigeria as effective research planning, implementation, and writing of research reports have been replaced with the despicable act of plagiarism (a practice referred to in Nigerian parlance as 'copy and paste'). Plagiarism is the, intentional and unintentional, use of other people's words or ideas without attributing the credit to them (Collins, 2010). It should also be emphasised that the issue of plagiarism is a major problem in tertiary institutions of learning in Nigeria.

The question might be asked: Why do many law students find their last year of studies in particular, and perhaps the first few years of their professional career as legal academics, so difficult in terms of satisfactorily discharging the requirement to engage in legal research and writing? The combination of the following three factors are, to a large extent, responsible. First, the educational foundation with which many Nigerian students come into the law faculties is flawed, especially in relation to the English grammar and writing skills. Secondly, many law students are lazy and not willing to engage in serious academic legal research and legal writing (The Nation Newspaper, 2016: 17). Thirdly, law students are 'given insufficient guidance regarding how to demonstrate their knowledge of the law' through legal research and writing (Strong, 2014: 2). Who is responsible for providing this

legal research guidance? It is the law faculties of Nigerian universities that should train and inculcate the skills of legal research and legal writing in the law students who will in the future become legislators, judges, law advocates and law teachers. However, it will be impossible to effectively transfer the requisite legal research and writing skills to law students, as long as Nigerian universities are unable to attract law teachers who are themselves, according to the Canadian Committee on Legal Research (1956: 1022-23):

Well trained, dedicated to work, and sufficiently relieved from drudgery to be free to think and write, and to [be able to] give individual attention to their students. This means that the teaching load must reasonably be low and the salary sufficiently high, to attract the best minds.

Otherwise, the inept cycle will continue unabated. Regrettably, the situation in Nigeria appears to be unencouraging and shows no immediate signs of improvement, as universities (mostly the public universities) lack adequate teaching and learning facilities because they are poorly funded (Ibijola, 2014; Onwudinjo, Nwosu and Ugwu, 2014), and seldom attract the best legal academics. To add to the problem, and make matters even worse, the universities are weighed down by nepotism and other corrupt practices in the staffing and administrative processes. It should be noted that corruption is a national phenomenon that continues to plague every facet of the Nigerian society with all the negative consequences for the country, and the education sector is not immune from it.

The underlying assumption of this article is that the law student/legal academic researcher has completed the first two stages in the research process, and is ready to move on to the next phase – writing the legal research report. This stage is as important as the planning and implementation of legal research itself, because it makes no sense to carry out research without making its findings known to the reading audience who may be interested in the research output. The undergraduate long essay is usually delineated into five chapters. In the case of the postgraduate dissertation or thesis, the number of chapters may vary according to the preference of the postgraduate school. This article is segmented into seven parts including this part being the first. Part 2 examines the structural layout of the research report. In part 3, the article explores how to cite sources – authorities which the researcher relies on in building or rejecting the theory or idea she has put forward – referred to in the research report. Part 4 examines the application of punctuation, ranges of years and foreign words used in the research report. In part 5, the article reflects on the use of quotations in the research report. Part 6 addresses the important issue of research ethics, and the article concludes and makes recommendations in part 7.

## **2. STRUCTURAL DESIGN OF THE RESEARCH REPORT**

### **2.1 Preliminary Parts of the Research Report**

The preliminaries of the research report are as follows:

*Title Page*

*Declaration*

*Certification*

*Acknowledgements*

*Abstract:* The abstract of a research report is the conceptual synopsis of the study. The abstract should capture the title of the research, objectives or purpose of the study, the research methodology, research findings, as well as recommendations of the study. It should be written in the active voice. Instructively, voice and language are important aspects of the research report. While there should be a mix of both the active and passive voices (it is advisable that the passive voice should be more dominant), it is important to ensure clarity in the language of the report. Therefore, the language of the report should be simple, and verbose words should be avoided as much as possible. The abstract of a research report should not be unnecessarily long. The abstract should not be more than two hundred and fifty words for a long essay, and not more than three hundred words for a dissertation/thesis. It should be written in a single block format without paragraphs, and must be written after the research has been concluded even though it appears in the preliminary part of the research report. The researcher is not required to refer to sources in the abstract, hence, there is no need for citations (footnotes).

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List of Tables (if any)

List of Charts (if any)

Table of Statutes

List of Treaties (if any)

Table of Cases

Abbreviations

## **2.2 Main Parts of the Research Report**

The main text of the report should contain the following:

### **The Introductory Chapter**

**Background of the Study:** The background of the study introduces the research. It entails the laying of the necessary foundation for the research. It sets out the facts in relation to the state of affairs on the subject of study. It helps situate the research problem within the context of the study. Therefore, the essence of the background of the study is to enable the research problem to be derived from it. Both the problem statement and the research questions should logically flow from the background of the study. In academic legal research, the background of the study is a representation of the issues identified from extensive literature survey or assessment of the theory and/or practice of the law.

The background of the study lays the foundation for the research problem or problems. And since the statement of the research problem is required to be very direct to the point, it is

necessary to clearly and extensively provide an analysis of the issues which give rise to the problem. Therefore, the area of concern of the research, as well as its justification should be stated in the background of the study. Also, all the information that will vividly highlight the research problem should be provided in this section, including why the researcher believes the problem is researchable.

**Statement of the Research Problem:** Research is a problem-centred endeavour. Therefore, the identification and formulation of the research problem(s) are considered to be the heart of the research, and constitute the 'why' of the study. The ability to identify and formulate robust and apt research problem or problems is central to the success of the research endeavour (Vibhute and Anynalem, 2009: 52-3). Equally important to any research are the assumptions which the researcher is expected to put forward in order to support the research problem or problems, as '[a]ssumptions are so basic that, without them, the research problem itself could not exist' (Leedy and Ormrod, 2010: 62). The writer is required to identify, in clear terms, the problem or problems which their research will find solutions to, as well as the knowledge gaps which the findings of her research will help fill. It is important to support the problem statement with previous research findings. The problem statement is different from the research questions, even though there is a nexus between the two, as will be seen below. Many legal researchers have difficulty in describing the research problem. This is because (i) they fail to focus on the problem, and (ii) they fail to allow the objectives of the study to determine their thinking and writing process. As a result, researchers often engage in writing 'jargon, which seems to obscure rather than explain what the research problem is.' (National Research Foundation cited in Bayat, 2008:47).

**Purpose/Objective of the Study:** The purpose or objective of legal research is to bring about change in the theory and/or practice of the law. The purpose of the study should describe what the research will add to the already existing body of knowledge in terms of new insights in the law, with the capacity to fill the gaps where they exist. The research may also seek to establish a new legal order, or body of laws where none existed. Therefore, the purpose of the study should specifically explain what the research seeks to bring forth, which is different from the status quo in the chosen subject of the law. The purpose of the study should be itemised or outlined, and the writer should demonstrate a linkage between the purpose of the study and the research questions. The purpose or objective of the study is what drives the research.

**Significance of the Study:** The significance of legal research, like the purpose or objective of the study, involves the 'what' of the research. Generally, the significance of research is determined by its relevance to society – in providing solution to problems. This is also true for legal research. The benefits and implications of the chosen legal research should be clearly stated under the significance of the study. It, therefore, follows that if the problem that necessitated the research, in the first place, is significant, the implication of the research will equally be significant. For instance, where there is the problem of conflicting or

divergent judgments by courts of equal jurisdiction on an issue, the significance of the study may lie in the solution which the research proffers in resolving the confusion and conflict that will arise in the course of implementation of the law. The significance may also lie in how to overcome the identified problems that are necessitated by badly designed legal and institutional frameworks. In a nutshell, the essence of this part of the research report is to state the importance of the chosen legal research (Steytler and de Visser, 2012: 2).

**Research Questions:** The research questions or assumptions are very important to legal research. They should be framed in a manner that will enable the issues or the research problem or problems to be squarely addressed. The issues or research problems are addressed in the main part of the research where the arguments are substantiated, by formulating sub-topics that will effectively capture and highlight the research problem or problems which is/are honed into one or more questions. In science-based research, the research questions are known as hypothesis. These are propositions, the validity of which are unknown to the researcher until proved or disproved by the research findings. In legal research, the research questions are akin to the issues which are raised in a legal brief for determination by the court. Research questions are the cardinal questions which the study seeks to find answers to. And since the researcher does not know, for certain, the outcome of the research, she is, however, expected to provide some general assumptions which will be confirmed or disproved in the substantiating chapters of the research. It is advisable to outline the important research questions or underlying assumptions. The research questions should be original, novel and unique to the study. Research questions are not required in all types of legal research. For example, where the research is an exploratory or declaratory legal research, there is no need for research questions as the problem statement will suffice in such a situation (Vibhute and Anynalem, 2009: 56). Most legal academics engage in exploratory legal research, and commonly make the mistake of raising research questions in the process.

**Scope and Limitations of the Study:** To effectively determine the scope of legal research, the researcher has to consider the delimitations of the study. The scope of the study involves the area or areas which the study will examine. It is the extent to which the research will go in relation to the stated research problems and questions. Those variables that limit the scope of the research are the delimitations of the study. The principle here may be likened to the preparation of a meal which is determined by the number of people to be served, and which in turn determines the quantum of vegetables to be used (Simon, 2011: 2). The limitations of the study, on the other hand, are the constraints, challenges or shortcomings which confront the research/researcher. They are factors that are usually out of the researcher's control. The ability to recognise these limitations empowers the researcher, in a manner that enables her to adjust in the best way possible (Simon, 2011: 1). The constraints or challenges to research may be as a result of the nature of the research or the time allotted to it. The limitations which are likely to affect the research should be clearly stated so as not to negatively affect the outcome of the research (Simon, 2011: 2).

It may be argued that in writing the research report, the scope of the study should be separate from the limitations of the study. It should be noted that the structural design of the research report, to a large extent, depends on the requirements of the law faculty or the postgraduate school, as the case may be. However, both scope and limitations of the study may be merged into one heading, but discussed in separate paragraphs.

**Research Methodology:** The research methodology constitutes the ‘how’ of the research – how the research was carried out. It is the scientific manner by which the researcher conducted the research. It is the process used in the collection of data and gives rise to the research findings. The legal researcher must state, in concise terms, how the research data was collected. There are three basic methodologies in collecting legal research data, which fall into either the doctrinal or non-doctrinal legal research. They are interview, observation, and examination of existing primary and secondary sources. The second and third methodologies are mostly adopted in legal scholarship, although there is a growing movement which calls for contextual and interdisciplinary approach, and the application of social science and scientific research methodologies (Cownie, 2004: 72, 197; Emiri and Eimunjeze, 2012: 89-127; Emiri, 2016: 1-34). The type or nature of the research, as well as the area of research are factors that may determine the research methodology. Legal research is mainly library-based research and for this reason it is sometimes referred to as desktop research. This means that data will be drawn basically from primary and secondary sources, namely, legislation, case law, books, scholarly journal articles, internet resources, newsletters, and unpublished dissertations or theses which are easily accessible in the library.

It is important to note that research methodology is different from research method. Research method involves the approach adopted in putting together the research report. A researcher may adopt the analytical, comparative, descriptive, prescriptive or exploratory approach, or a combination of some of these approaches, in the writing of the legal research report.

**Definition of Terms/Concepts:** At this point, the definition of key terms or concepts in the context of the research are provided. The key terms or concepts to be defined or clarified should not be too many. And they are to be defined in such a manner that will avoid ambiguity and enable the readers to understand how the term/concepts are applied in the research report.

**Literature Review:** It should be noted right away that in writing an advanced legal research report such as a dissertation/thesis for the master (LL.M)/doctoral (Ph.D) degree, it is recommended that the literature review should stand alone as a separate chapter – specifically in chapter two of the report. This will ensure a thorough review of related literature. At this stage, the researcher is required to review literature that are related to

the research, drawing on key theories and concepts that relate, directly or indirectly, to the study at hand. The literature review should identify the areas of divergence of the current research with the existing literature. This is only possible when the researcher undertakes extensive reading and study of existing literature. By so doing, original arguments can be highlighted in the undertaken research, and the standard of the research contribution to knowledge can be properly measured. For a legal research that involves the assessment or evaluation of legislation, this is not the place to undertake review of legislation or pieces of legislation. Such analysis is to be done in succeeding chapter(s). Many students (both at the undergraduate and postgraduate levels) make the error of analysing legislation under the literature review. This is not correct as what is expected of the researcher is the review of scholarly works such as journal articles, books, conference papers and other secondary materials. The literature review 'is not the place to describe the Constitution, legislation or court cases [as] the academic enterprise is about challenging accepted views and doctrines' (Steytler and de Visser, 2012: 3), neither is it the place to establish new doctrines. Thus, Gall, Borg and Gall have, among other things, outlined the following as commonly made errors in the course of undertaking literature review:

- i. the inability to clearly relate the findings of the reviewed literature to the researcher's own study,
  - ii. failure to apply the best description and best sources in the review of literature related to the researcher's topic,
  - iii. failure to critically examine all aspects of the research approach and analysis,
  - iv. analysing isolated findings rather than synthesised analysis, and
  - v. failure to consider contrary findings and alternative findings contained in the literature
- (Gall, Borg, and Gall. 1996: 161-2).

The literature review may be segmented in sub-themes or written in chronological fashion, in a manner that allows the arguments to flow. It is not sufficient to merely survey other literature, as the researcher is expected to identify the areas of divergence between other studies and the present research, and the justification for carrying out the research. The literature review provides the reader with a roadmap or direction with which to navigate the report. The following key points must be reflected in a good literature review:

- i. it should be relevant,
- ii. it should be important,
- iii. it should be presented in a logical manner,
- iv. the reviewed literature should be current,
- v. it should distinguish between premises from theory and research findings,
- vi. it should distinguish between opinions and research findings,
- vii. it should provide a critical analysis,
- viii. it should be comprehensive and appropriate,
- ix. it should facilitate coherence in the introduction and literature review, and

- x. use of logical transitions.

For the long essay, there is no need for a separate heading to deal with the theoretical framework of the research. This is subsumed in the literature review. However, in more advanced research, the theoretical framework should not be incorporated in the literature review. It should be placed in the introductory chapter, while the literature review should take the whole of the second chapter. The theoretical framework limits the extent of relevant data to be analysed, by focusing on specific subject areas and determining what the researcher will apply in the analysis and interpretation of the data which have been gathered in the course of the research. It is used to build new knowledge by either validating or challenging existing theoretical propositions. Its purpose is to understand the conceptual basis for the researcher's analysis and designing ways to investigate relationships within social systems (University of South Carolina, 2016). In order to have a clear theoretical framework, the researcher must review pertinent research studies for theories that are relevant to the research problem that is being investigated, and provide a thesis sentence that state the basic conclusion(s) of the research. While the thesis statement helps to guide the reader by letting him know where the writer is heading (Dernbach and Singleton, 1981:93), the identified theory should be capable of accomplishing the following:

- i. explain the research problem,
- ii. provide a clear statement of theoretical assumptions,
- iii. connect the research to existing knowledge,
- iv. address questions of why and how,
- v. identify the limit to generalisations, and specify how the key subject areas apply to the central phenomenon of interest, and how these variables are different in certain circumstances (University of South Carolina, 2016).

### **The Substantiating Chapters**

The substantiating chapters are essential to the main part of the research report. For the long essay, three chapters make up the substantiating chapters – chapters two, three and four of the research report. A dissertation or thesis may contain as many as six, seven or more substantiating chapters depending on the issues or research questions. Since the bulk of the research report is devoted to substantiating the arguments, which are a direct function of the issues or research questions, it is important to divide the arguments into segments or chapters, in a manner that provide answers to the issues or research questions. It therefore means that the chapters are not to be done in a haphazard fashion, but in a manner that demonstrates purpose. This entails a logical flow of the arguments marshalled in the various chapters (Steytler and de Visser, 2012: 3).

### **The Concluding Chapter**

The concluding part of a legal research report should contain the summary, conclusion, and recommendations. This chapter is appropriately headed 'Summary, Conclusion, and Recommendations'. This chapter is further divided into three sub-sections as follows:

**Summary:** In the summary, the researcher should summarise the research problem or problems, the methodology adopted in implementing the research, as well as the substantiating chapters of the research. This provides an overview or general idea of the research to the readers.

**Conclusion:** Following the summary, the conclusion should recapitulate the main findings of the research, which either confirmed or rejected the research questions stated in the introductory chapter. It should be noted that where each substantiating chapter contains a concluding sub-section, this final conclusion should merely abridge the various conclusions in the substantiating chapters. The conclusion in the concluding chapter should also contain the implications of the various findings as they affect the state of the law or practice. The implications are obvious inferences which are drawn from the research findings, as well as unanswered issues which may remain unresolved by the research (Steytler and de Visser, 2012: 220).

**Recommendations:** The recommendations should contain the plausible future direction of the law, as well as research endeavours on the subject area. It should provide recommendations for action, specifically directed to, for example, the legislature, the courts, government agencies, civil society organisations, or other institutions.

### 2.3 The End Part of the Research Report

#### Bibliography

The end part of the research report contains the bibliography. In academic legal research reports, the bibliography is a chronological listing of all secondary materials referred to in the report. Each entry should begin with the author's surname, followed by initials and a comma. If there are two or more sources by the same author, they should be arranged according to the first in time of publication. The subsequent bibliographical entry of an author whose work is immediately stated should be provided without the author's surname and initial(s), they are to be replaced with the double 'em-dash'. For example:

Nwabueze, B., *Constitutional Democracy in Africa Vol. 1: Structures, Powers and Organising Principles of Government*, 1st edn (Ibadan: Spectrum Books, 2003)

\_\_\_\_\_, *Constitutional Democracy in Africa Vol. 3: Structures, Powers and Organising Principles of Government*, 1st edn (Ibadan: Spectrum Books, 2003)

Note that in legal academic research reports, the primary sources are listed in the preliminary pages under the Table of Statutes, List of Treaties (if any), and Table of Cases in

that order, and not under the bibliography. This means that only the secondary sources are listed under the bibliography. Just like the primary sources in the preliminary pages, the secondary sources in the bibliography are listed in the order of their importance, without the pinpoint (page number) and full stop. The bibliographical entries should be stated under headings. For example:

Books

Edited Books

Journal Articles

Command Papers

Conference/Workshop Papers

Newspaper Articles

Radio/Television Programmes

Unpublished Dissertations/Theses

Internet Resources

Interviews

### 3. CITATIONS

In the enterprise of legal academic writing, the writer is required to provide evidence for the claims made in the report by citing their sources in a consistent and familiar manner which enables the reader to identify the author's source and follow the argument (Meredith and Nolan, 2012: 1). There is no universally acceptable method of citation in legal writing. In jurisdictions such as Canada and South Africa, the footnote method, as prescribed and used by the *Canadian Guide to Uniform Legal Citation*, 2014 and the *South African Law Journal* respectively, is the mode of citation that is widely used. In the United States both the in-text and footnote methods are widely used (Columbia Law Review *et al*, 2015; University of Canberra Library & Academic Skills Program, 2010). In the United Kingdom, the Faculty of Law, University of Oxford, for example, adopts a somewhat different citation style based on the footnote method for referencing of sources (University of Oxford, 2012).

In Nigeria, there appears to be no uniform style of referencing research materials when engaging in legal academic writing. However, the footnote method, as opposed to the in-text and endnote methods, is the mostly applied in citing sources in legal research reports. In doing so, references are made to both primary sources (statutes or legislation, cases) and secondary sources (books, journal articles, newspaper articles, websites, policy statements, etc) in the footnote rather than in the text or at the end of the report. In this regard, the method of citation in the *Oxford Standard Citation of Legal Authorities* (OSCOLA) appears to have been adopted (Nigerian Association of Law Teachers, 2016). This is opposed to the Harvard referencing system which requires the use of in-text citations otherwise known as the 'author-date style', which allows for the source of information to be stated in the text, for example, Nwabueze (2003: 42); Ebeku (2009). Therefore, when citing any source, either directly (as a quotation) or indirectly (by paraphrasing or referring to an idea in a source), it

should be cited in a footnote. Each citation is represented by an Arabic numeral which is indicated immediately after the quotation or idea and referenced at bottom of the text.

A footnote must end with a full stop. When more than one citation is provided in a single footnote, they should be separated by semi-colons. Ensure that the footnote marker appears after the relevant punctuation in the text (if any), and normally at the end of a sentence. However, it may sometimes be necessary, for the purpose of clarity, to put the footnote after the word or phrase to which it relates. A separate footnote need not be provided for quotations from the text from which they are derived if they appear in the same sentence. If this is not the case, separate footnotes should be provided.

### 3.1 Citing Cases

When citing a case, the writer should include the name of the parties involved in the action in italics, the year the decision was handed down should be stated in square brackets, followed by specific information as to where the case was published, for example in a law report, and the page are also provided. The abbreviation of the court which gave the decision is also stated. If the case can be found in a data base or online other than in a law report, a neutral citation should be provided (Queens University Library, 2016). Foreign cases should be cited in the manner cited in the home jurisdiction (University of Oxford, 2012: 32). Where a case name is given in the text, it is not necessary to repeat it in the footnote. For example, assuming the following to be a passage in a text:

The basic structure doctrine was first applied in 1973 by the Indian Supreme Court in the case of *Kesavananda Bharati v State of Kerala*,<sup>1</sup> when the Court struck down an amendment to the Constitution by the Indian Parliament. The Court viewed that constitution amendment as an attempt to restrict property rights, asserting that the Indian Constitution possesses a basic structure of constitutional principles which must not be destroyed by Parliament despite its wide powers under the Constitution.<sup>2</sup> As distilled from the law report, the Indian Supreme Court identified the following as forming the basic features of the Indian Constitution, namely, the supremacy of the Constitution, separation of powers between the legislature, executive and the judiciary, free and independent judiciary, republican and democratic form of government, parliamentary democracy, secular character of the Constitution, federal character of the Constitution, unity and integrity of the country, sovereignty of India, individual freedoms secured to the citizens, and the mandate to build a welfare state as contained in the Directive Principles of State Policy.<sup>3</sup>

Similarly, the basic structure constitutionalism has been alluded to by the Nigerian Supreme Court in the following cases of *Lakanmi & Ors v Attorney General (West) & Ors*, wherein it was held that the Nigerian government, as well as the Constitution are based and structured on the principle of separation of powers;<sup>4</sup> *Senator Abraham Adesanya v President of the Federal Republic of Nigeria & Anor.*, in which the Court held that in circumstances where the civil rights and obligations of

citizens are affected, the courts can exercise its judicial powers with regard to an act of the legislature or executive;<sup>5</sup> *Attorney General of Bendel State v Attorney General of the Federation & 22 Ors.*, in which it was restated that by virtue of the provisions of the Nigerian Constitution, courts of law have the power and duty to ensure that there is no infraction in the course of the exercise of legislative powers, as contemplated or expressly set out in the Constitution, and that where such infraction exists, the courts are empowered to declare such legislative action as unconstitutional and invalid;<sup>6</sup> and that federalism is recognised as a general principle upon which the Nigerian Constitution is based.<sup>7</sup>

The footnotes for the above citations would appear as follows:

- <sup>1</sup> [1973] 4 SCC 225 (SC).
- <sup>2</sup> Ibid, 229.
- <sup>3</sup> *Kesavananda* (n 1) 241-252.
- <sup>4</sup> [1970] LPELR-SC.58/69 (SC).
- <sup>5</sup> [1981] ANLR 1, 58, (SC) para. 5.
- <sup>6</sup> [1981] ANLR 85, 133, (SC) para. 2.
- <sup>7</sup> *Attorney General of Ogun State & Ors. v Attorney General of the Federation & Ors.* [1982] 3 NCLR 168, 179, 189, 194 & 201-202; *Attorney General of Bendel State v Attorney General of the Federation & Ors.* [1983] ANLR 208, 222 (SC) para. 4.

The numbers at the end of footnotes 2, 3, 5, 6 and 7 are called ‘pinpoints’. They give the exact page and paragraph in which the idea or quotation can be found (University of Oxford, 2012: 19). It is also acceptable to include the full case reference in the footnote, where only the idea or quotation was provided in the text, as depicted in footnote 7 in the example above.

### 3.2 Citing Statutes or Legislation

No footnote is required where all the information about a piece of legislation is provided in the text, as in the following sentence:

**The case of *Fawenhimi v Akilu* provided a restatement of the constitutional doctrine of incorporation of treaties as provided in section 12 of the Constitution of the Federal Republic 1999 (as amended).**

However, where the text does not include the name of the statute or legislation, or the relevant section, this information should be provided in a footnote. *For example:*

**In Nigeria, while civil and political rights have been accorded affirmative and justiceable recognition under the Constitution, socio-economic rights remain subject to non-justiceable directive principles which serve as policy guides for the government.<sup>1</sup>**

In representing the above idea in the footnote, it would appear as follows (if the legislation or statute is cited for the first time):

- <sup>1</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended) Cap. C23 Laws of the Federation of Nigeria, 2004, s. 16(2)(d).

It is wrong to cite a Nigerian legislation or statute by referring to the year in which it was enacted or published, as there is a standard way of citing Nigerian legislation or statutes according to the chapters (which are arranged in alphabetical order) and edition in which the legislation is published. The current edition of the Laws of the Federation of Nigeria was published in 2004 and it should be cited as such. Many law students/legal academics often make the error of citing Nigerian statutes according to the year of enactment. If this is necessary at all, year of enactment should be placed in brackets after the proper citation has been provided. Foreign statutes or legislation should be cited as they are cited in their home jurisdictions. Another common error which is often made by law students/legal academics is to place the section(s) of the statute or legislation before the name of the statute. This is permissible in the text, but when citing the legislation in the footnote, the name of the statute should come before the section(s).

### **3.3 Citing Secondary Sources**

If the writer makes reference to a secondary source, for example, a book, journal article, edited work, conference paper, workshop paper, command paper, newspaper article, internet resource, unpublished dissertation/thesis, radio/television programme or interview, the writer should also provide a citation of the work in a footnote. If the initial(s) and surname or the forename and surname are preferred, they should be written in a consistent manner all through the report. Where the resource to be cited is authored by more than three persons, the forename or initials and the surname of the first author should be stated followed by *et al* (and others) (University of Oxford, 2012: 1). The book title should be written immediately after the name or names of the author or authors in italics, and followed by other publication information inside a pair of brackets. The page number (pinpoint) where the quotation or idea can be found should be provided after the closing bracket. Citing edited works and journal articles is slightly different from citing of books. In the case of edited materials, the title of the edited paper should be stated immediately after the name or names of the author or authors with inverted commas ' & ' used to enclose the title of the paper or article, followed by the word 'in' and the name or names of the editor or editors of the book. The remainder of the citation follows the pattern of citing a book source. For journal articles, the year of publication, volume and issue number, the name of the journal (in italics), the page where the article begins, and the specific page or pages where the quotation or idea can be found (pinpoint), in that order, should immediately follow the title of the article.

As a general rule, when citing secondary sources accessed in electronic form, the traditional citation should be provided for the particular type of secondary source being cited, whether it is a book, a journal article, a government document, or a newspaper. This should be followed by a comma, and the phrase 'available at' followed by the name of the Uniform Resource Locator (URL) or website address. The URL should not be underlined, but it should be enclosed with the signs < & > (Queens University Library, 2016). Finally, the date on which the material was accessed via the internet should be indicated at the end of the citation.

As earlier noted, there are many styles of citing sources. And because of the differences in the styles, there is the need to eliminate confusion. In view of this, some jurisdictions and institutions (including law faculties) have adopted specific citation styles for the citing of sources in legal academic writing. The differences are mainly noticeable in the citation of books and edited works. For example, the eighth edition of the *Canadian Guide to Uniform Legal Citation*, 2014 (a.k.a *McGill Guide*) prescribes that the edition number (publication other than the first edition), place of publication, publisher, and year of publication should be provided in that order; the Harvard referencing style prescribes that the year of publication should be provided immediately after the name or names of the author or authors, and the place of publication should be stated after all other publication information have been provided; the OSCOLA style does not require the place of publication in the citation; and similarly the citation style widely prescribed for use in legal academic writing in South Africa does not require publication details to be stated, except for the year of publication. The examples provided below takes into consideration some of these differences. What is important is for the researcher/writer to be consistent in the citation style she has elected to adopt.

Examples of how to cite secondary sources in footnotes:

### **Books**

NS Okogbule (2012) *Globalization and Human Rights in Africa* (Sibon Books Limited) p. 45.

Timothy Ojo, *The Nigerian Legislature: Its Origin, Organisation, Processes, Procedures, and Practices* (Lagos: ASCON Press, 1997) p. 44.

Ben Nwabueze, *Constitutional Democracy in Africa Vol. 1: Structures, Powers and Organising Principles of Government*, 1st edn, Ibadan: Spectrum Books, 2003, at 50.

M.D.A. Freeman, *Lloyd's Introduction to Jurisprudence* (8th edn, Thomson Reuters (Legal) Limited, London 2008) 48.

### **Edited Books**

Donald Kommers, 'Germany: Balancing Rights and Duties' in Jeffrey Goldsworthy, (ed), *Interpreting Constitutions: A Comparative Study* (New York: Oxford University Press, 2006) p. 163.

M. Loughlin, 'Reflections on the Idea of Public Law' in E. Christodoulidis and S. Tierney (eds), *Public Law and Politics: The Scope and Limits of Constitutionalism* (Hampshire: Ashgate Publishing Limited, 2008) 35.

R. Ako and N. Uddin, 'Good Governance and Resource Management in Africa' in F. N. Botchway (ed), *Natural Resource Investment and Africa's Development* (Edward Elgar Publishing Ltd., Cheltenham 2011) 37.

Kaniye S.A. Ebeku, 'Limited Applicability of Shari'ah under the Constitution of Nigeria' in Rainer Grote and Tilmann Röder (eds), *Constitutionalism in Islamic Countries: Between Upheaval and Continuity* (Oxford University Press, Inc., New York 2012) 89.

### **Journal Articles**

Nsongurua Udombana, 'Life, Dignity and the Pursuit of Happiness: Human Rights and Living Standards in Africa' (2008) 28(1) *The University of Tasmania Law Review* 47, 48-9.

Ekokoi Solomon, 'Sustainable Management of Nigeria's Oil Wealth: Legal Challenges and Future Directions' (2016) 7(2) *Journal of Sustainable Development Law and Policy* 135, 140.

E Solomon, 'Rediscovering the Essence of Federalism in Nigeria' (2016) 1 *Journal of International Law and Strategic Studies* 55, 63-6.

### **Command Papers**

The World Bank, 'Nigeria: Overview' (30 September 2015), available at <[www.worldbank.org/en/country/nigeria/overview](http://www.worldbank.org/en/country/nigeria/overview)> accessed 21 August 2016.

The National Conference, *Main Report* (August 2014) Abuja, 197.

Central Bank of Nigeria, 'Improving the Revenue Generating Capacity of the Three Tiers of Government' (31st December 1996) Annual Report, 22.

### **Working Papers**

L.N. Chete *et al*, 'Industrial Development and Growth in Nigeria: Lessons and Challenges' (2016) Learning to Compete, Working Paper No. 8, Nigerian Institute of Social and Economic Research (NISER), Ibadan, 1, available at <[www.brookings.edu/wp-content/uploads/2016/07/L2C\\_WP8\\_Chete-et-al-1-pdf](http://www.brookings.edu/wp-content/uploads/2016/07/L2C_WP8_Chete-et-al-1-pdf)> accessed 20 August 2016.

T. Baunsgaard *et al*, 'Fiscal Frameworks for Resource Rich, Developing Countries' (16 May 2012) IMF Staff Discussion Note, International Monetary Fund, 12.

J.O. Adesina, 'Social Policy and the Quest for Inclusive Development: Research Findings from Sub-Saharan Africa' (May 2007) Social Policy and Development Programme Paper No. 33, United Nations Research Institute for Social Development, 10.

C.U. Uche and O.C. Uche, 'Oil and the Politics of Revenue Allocation in Nigeria' (2004) African Studies Centre Working Paper No. 54, 7.

### **Conference/Workshop Papers**

S. Griffith-Jones and J. A. Ocampo, 'Sovereign Wealth Funds: A Developing Country Perspective' (February 2008) (paper presented at the workshop on Sovereign Wealth Funds, London, 8.

### **Newspaper Articles**

T. Odiadi, 'The Constitution and Sovereign Wealth Fund: Matters Arising' *The Guardian* (Lagos, 7 August 2012) p. 33.

Kingsley Moghalu, 'Do Economists Matter?' *This Day* (Lagos, 20 September 2016) 48.

### **Radio/Television Programmes**

*African Start-Up*, Television Broadcast, Interview with Muda Yusuf, Director General, Lagos Chamber of Commerce and Industry *CNN International* (Lagos, 14 May 2016).

### **Unpublished Dissertations/Theses**

Nsongurua Udombana, 'Shifting Institutional Paradigm to Advance Socio-economic Rights in Africa' (LL.D thesis, University of South Africa 2007) 41.

K. Ekwere, Sustainable Development of Oil and Gas in the Niger Delta: Legal and Political Issues' (Ph. D dissertation, Law of the Sea and Maritime Law Institute, University of Hamburg 2009) p. 66.

### **Internet Resources**

Central Intelligence Agency, 'Nigeria – Economy' in *The World Factbook*, available at <[www.cia.gov/library/publications/the-world-factbook/geos/ni.html](http://www.cia.gov/library/publications/the-world-factbook/geos/ni.html)> accessed 22 January 2016.

BBC News, 'Nigerians Living in Poverty rise to 61 %' (13 February 2012), available at <[www.bbc.com/news/world-africa-17015873](http://www.bbc.com/news/world-africa-17015873)> accessed 24 March 2014.

The Nigerian Voice, 'Counting the Gains of the Amnesty Programme' (15 February 2012), available at <<http://www.thenigerianvoice.com/nvnews/82773/1/counting-the-gains-of-the-amnesty-programme.html>> accessed 17 July 2015.

### 3.4 Order of Sources in Footnotes

When citing more than one source of the same kind for a single proposition, the sources should be listed in chronological order, beginning with the latest in time. Separate the citation with semi-colons, and do not use 'and' to separate the final citation with the others. Where one or more of the sources are more directly relevant than others in respect of the idea or proposition being put forward, the more relevant sources should be cited first, followed by the less relevant sources in a new sentence beginning with the phrase 'see also'. When both legislation and case law are relevant to the point being made, legislation should be cited before case law. Also, when citing secondary sources in respect of a particular idea or proposition, the secondary sources should be provided in order of their importance. Primary sources should always be provided before the secondary sources, except where it is a direct quote taken from a secondary source.

### 3.5 Subsequent Citation, Cross-references and Latin 'Gadgets'

#### 3.5.1 Subsequent citation

In a subsequent citation of a material, the source should be briefly identified and a cross-citation provided in brackets to the footnote in which the full citation can be found. If the subsequent citation is in the footnote immediately following the full citation, use 'Ibid' instead of repeating the citation. When citing a case which had previously been cited, it is sufficient to use a short form of the case name to identify the source. In the case of legislation, abbreviations or other short forms may be used. For secondary sources, subsequent citations require the use of only the surname of the author. However, where several works by the same author had been previously cited, the surname and title of the work should be provided to avoid confusion.

Examples of subsequent citation of a case (the ellipsis depicts the omission of previous footnotes):

Subsequent citation for *Dangana & Anor. v Usman & 4 Ors.* is provided in footnote 1 below:

<sup>1</sup> [2012] 2 SC (Pt. III) 103.

<sup>2</sup> Ibid, 130 (Adekeye, JSC).

...

<sup>5</sup> *Dangana* (n 1) 133.

Examples of subsequent citation of legislation:

The examples provided below show legislation or statutes for which a short form could be used in subsequent citations. The short form is indicated in brackets after the full citation. In

such a case, the short form can be used without cross-referencing the full citation (but only if it will not confuse the reader). Always state the title of the legislation followed by other particulars before the section. Many legal academic writers make the error of beginning the citation with the section. This is wrong. The following are examples of subsequent citation of previously cited legislation:

<sup>6</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended) Cap. C23 Laws of the Federation of Nigeria 2004 (CFRN, 1999) s. 4.

...

<sup>8</sup> Interpretation Act Cap. I23 Laws of the Federation of Nigeria 2004 (Interpretation Act) s. 34.

<sup>9</sup> CFRN, 1999, s. 12(1).

<sup>10</sup> Interpretation Act, s. 2.

Examples of subsequent citations of a book:

The examples depict citations of a book which is first cited in full at footnote 11 and cited again in footnote 15 with a cross-citation to footnote 11, and a further citation at footnote 16.

<sup>11</sup> Inyang Ekwo, *Incorporated Trustees: Law and Practice in Nigeria* (LexisNexis, Durban 2007) 16.

...

<sup>15</sup> Ekwo (n 11) 113.

<sup>16</sup> *Ibid*, 115-16.

Examples of subsequent citation of two works by the same author:

In the following example, two different works by the same author are cited. The subsequent citation provides the author's surname and title of the work, or a short form of the title.

<sup>17</sup> John Asein, *Introduction to Nigerian Legal System* (Ababa Press Ltd., Surulere 2005) 55.

<sup>18</sup> John Asein, *Nigerian Copyright Law & Practice* (2nd edn, Books and Gavel Ltd., Abuja 2012) 130.

...

<sup>38</sup> Asein, *Nigerian Copyright Law & Practice* (n 18) 135.

...

<sup>40</sup> Asein, *Introduction to Nigerian Legal System* (n 17) 60.

### 3.5.2 Cross-references and Latin 'gadgets'

Cross-references direct the reader to points of substantive discussion elsewhere in the research report. However, the writer should avoid sending the reader off to another part of the text when a point could briefly and easily be restated. The writer should never make a

cross-reference that will make it difficult for the reader to find. For example, by referencing as follows: 'see above', 'supra', 'infra', 'ante', 'id', 'op cit', 'loc cit', and 'contra' (University of Oxford, 2012: 7). These words are capable of confusing the reader, as they are archaic words and not widely understood. A good cross-reference should take the reader straight to the very place which is being referenced. For example: n 95, Ibid, 90, etc. The abbreviation 'n 95' (which should be placed in brackets) signifies cross-reference to footnote 95, while 'Ibid' is the short for *ibidem* which means 'in the same place'. When used alone, 'Ibid' means 'in the very same place', and when it is accompanied by Arabic numeral(s), it means 'in the same work, but this time at the page number stated. When citing a material after one or more citations have come in-between, it is acceptable to cite the material by the use of only the surname of the author followed by a reference to the first full citation and a pinpoint. The following are examples for cross references:

<sup>41</sup> B.O. Nwabueze, *A Constitutional History of Nigeria* (London: C. Hurst & Co. (Publishers) Ltd., 1982) p. 137.

<sup>42</sup> Ibid, p. 20.

...

<sup>49</sup> Nwabueze (n 41) pp. 138-9.

or

<sup>41</sup> BO Nwabueze, *A Constitutional History of Nigeria* (C. Hurst & Co. (Publishers) Ltd., London 1982) 137.

<sup>42</sup> Ibid, 20

...

<sup>49</sup> Nwabueze (n 41) 138-9.

#### 4. PUNCTUATION, RANGE OF YEARS AND FOREIGN WORDS

##### 4.1 Punctuation

Every citation in the footnote must end with a full stop. This is not the case with the bibliography. Commas should be used to separate items that may otherwise run together and cause confusion. Besides the use of appropriate punctuations in the footnote, punctuations are generally very important in legal academic writing. This is because a punctuation forms part of a sentence, and is used in construing the correct meaning of the sentence (Interpretation Act, Cap I23 Laws of the Federation of Nigeria, 2004, s. 3(1); *Shell-BP v Federal Board of Internal Revenue* (1976) 1 F.N.L.R. 200). Therefore, care must be taken to ensure that punctuations are correctly used where and when they are necessary.

##### 4.2 Range of Years

Where the range of numbers indicate years, and the years span across centuries, the final year should be given in full. For example: 1848–1905, 1980–2015. Otherwise, it should be written in part. For example: 1970–81, 1975–85.

### 4.3 Foreign Words

Foreign words and phrases used in the text which are not commonly used or which have not become part of the English lexicon should be italicised. Words such as *ultra vires*, *stare decisis*, *obiter dicta*, *ratio decidendi*, *a priori*, and *a fortiori*, that are in common usage in legal English should not be italicised (University of Oxford, 2012) The writer should provide a translation of any foreign word and phrases immediately afterwards in brackets. If common abbreviations such as 'i.e' and 'e.g' (which mean 'that is' and 'for example') are used, their meaning should also be provided immediately afterwards.

## 5. QUOTATIONS

Even though quotations are important and sometimes necessary when writing the research report, they should be used sparingly (Vibhute and Anynalem, 2009: 218). When quoting from primary and secondary materials, the writer must be faithful to the original texts, except where it is necessary to change them. If it is necessary to make changes, it must be indicated by the use of square brackets to indicate that changes have been made to the original texts. When quoting directly from the text of a work which states, for example:

*The Court reasoned that, whereas, in the former scenario the legislature may fundamentally restructure a law to suit the political preference of the legislative body, in the case of the latter, the legislature could not restructure the constitution according to its whims and caprices, as such act would amount to changing the constitution in the exercise of its legislative powers rather than through the exercise of constituent powers.*

The writer may elect to make a direct quotation of the above statement, while also deciding to leave out certain words or phrases that may not be relevant to the point being made. For example:

'The Court reasoned that ... the legislature may fundamentally restructure a law to suit the political preference of the legislative body ... [but noted that] the legislature could not restructure the constitution according to its whims and caprices'.

The square brackets are indications that changes have been made to the original text in the present quotation. The 'ellipsis' in the quotation indicates that some words in the original text are missing or have been dropped in the present quotation. The position of the closing inverted comma is important. Where it is placed before the full stop, it indicates that the writer has ended the quotation before the point where the original text ended. Where the closing inverted comma is placed after the full stop, it means that the quotation has ended at the same place where the original text ended with a full stop. The writer must ensure to incorporate quotations with maximum of forty words within the text, with open and close inverted commas (quotation marks) to mark off the beginning and the end of the quote. In cases where the quotation is more than 40 words, it should be indented, preferably, in a

single line spacing format, without quotation marks, and must not be italicised. Either way, there should be a logical flow of idea or ideas between the rest of text and the quote.

## 6. ETHICS IN LEGAL ACADEMIC WRITING

Ethics connote what is morally right and what is not. They relate to moral action and conduct. In the context of legal academic writing, ethics signifies what is professionally expected of a legal researcher/writer (Garner, 2004: 913). It is about conforming to standards of the legal academy which include acceptable best practices in legal academic writing. Ethics in legal academic writing, therefore, means the acceptable best practices required in the legal academic research process, which, of course, entails the observance of certain obligations which are placed upon the legal researcher/writer (Garner, 2004: 913).

As earlier noted, legal academic research may achieve the following objectives to wit: breaking new grounds in the law or its applicability, advancement of the law beyond its existing frontiers, and/or reemphasising, reasserting or restating the existing law. The utility of the third objective therefore lies in the justification or acceptance of an existing conclusion in respect of theory or theories. It is important to note that certain characteristics are common to every authentic legal academic research report. They include:

- i. Originality: Legal originality does not imply one hundred percent new research report. In legal academic research/writing, what is required is 'some original idea how law is to be understood or applied' (Seims, 2008:148) by adopting any or a combination of the micro-legal, macro-legal, scientific legal, or socio-legal method of legal research (Seims, 2008: 148-163). In writing a legal research report, it is permissible and required of a researcher/writer to consult existing literature on the subject matter of the research, as, according to the University of KwaZulu-Natal Library (2009:1), '[i]t is academic courtesy to acknowledge the work of others [since no one person] know[s] everything.' However, the sources (existing literature) consulted or referred to must be clearly cited. This is because, besides the need not to pass-off someone else's words, consulting previous research reports can help to stimulate new ideas and thus expand the frontiers of legal knowledge. It is also permissible to consult existing literature in order to give validity to the effort of the latter researcher/writer. However, the level of usage of previous materials must be within the limits which the law allows – this implies the fair use of the existing work (*Hubbard v Vasper* [1972] 2 Q.B. 84; *Ashdown v Telegraph Group Ltd.* [2002] Ch. 149; Asein, 2012: 250-63).
- ii. Usage of acceptable research methods: Every legal research must aspire to be acceptable to the legal academic community, as well as the society for which it seeks to provide solutions. And one way of realising this is by the usage of acceptable legal research methodology and methods in the legal research and writing processes.

- iii. Functionality to the legal community: Legal academics have the obligation of equipping law students with legal knowledge and preparing them to find answers to legal problems confronting society. More importantly, they have to pursue legal research which, as Seims (2008: 148) notes, goes 'beyond the mere solving of practical legal problems' to establishing broad legal doctrines that will be useful to the legal community – law advocates, judges, legislators and the legal academia (Seims, 2008: 163).

## **7. CONCLUDING REMARKS AND RECOMMENDATIONS**

The importance of legal academic research/writing and the role of law faculties of Nigerian universities in promoting these very important activities underscore the necessity for creating appropriate infrastructure for effective legal research and writing. The object of such an academic infrastructural framework should be to ensure that legal research studies are problem solving tools for the society. This can only be realised if legal research is properly conducted and documented in a methodological manner. Therefore, the imperative of effective and efficient legal research and writing cannot be overemphasised. Accordingly, this article provides three recommendations that will encourage the development of legal academic research studies in Nigeria. The first relates to the need to treat legal research and writing with the measure of importance it deserves. From the analysis in previous parts of this article, it is obvious that the importance of legal academic research, as well as the effective documentation of the research output, cannot be overemphasised. Therefore, law faculties of Nigerian universities must begin to place greater emphasis on promoting and developing appropriate legal research/writing skills of law students, through the effective teaching of legal research and writing. This will, no doubt, produce positive impact in the nature and quality of legal research and long essays, dissertations and theses written by undergraduate and postgraduate law students in law faculties of Nigerian universities.

This article recommends that research methodology should be taught as a compulsory or required course both at the undergraduate and postgraduate levels. The law faculties should ensure that only academics who are competent and have the requisite skills/knowledge in legal research methodology/methods are assigned to teach the course. Importantly law students should be made to earn credits for the course. The current system whereby legal research/writing is incorporated into the legal method course module at the undergraduate level has not helped in the effective teaching and learning of academic legal writing, as the academic legal writing part of the course is simply glossed over due to the elaborate nature of the course. The result is the poor quality of law essays, dissertations and theses, as well as the unethical practices demonstrated by law students in relation to legal writing. This is because the skills that are required for effective academic legal writing go beyond the peripheral tutorials given to law students in the legal method course. They include, but are not limited to (i) a thorough grasp of grammatical and style conventions, (ii)

exceptionally strong writing and legal citation skills, (iii) close attention to detail, (iv) logical reasoning skills, and (v) persuasive abilities (Harvard Law School, 2017).

The second recommendation speaks to the need for uniformity in the style of citation when undertaking legal academic writing in Nigeria. Even though there appears to be a standard legal research report design, and an accepted footnote method of referencing sources in Nigerian legal institutions, no uniformly acceptable citation style exists for citing of sources in the Nigerian legal academy. To this extent, this article recommends that a standard and comprehensive legal citation manual, which should adopt a uniform style of citing legal authorities in Nigeria, be developed through the collaborative efforts of the faculties of law of Nigerian universities, the Institute of Advanced Legal Studies and the Nigerian Law School. This manual will serve as a guide to legal academics writers and other legal scholars who engage in legal academic writing in Nigeria. This will discourage the practice of adopting different legal citation styles.

The third recommendation is in relation to tackling plagiarism. Plagiarism is a major problem in institutions of higher learning in Nigeria, and the law faculties are not immune from this problem. This problem should be taken more seriously in Nigeria by treating it as academic fraud which may constitute grounds for serious disciplinary sanctions including a fail grade in the long essay, dissertation or thesis and suspension or dismissal from the university (University of California Berkeley, 2012; Boston University, 2011:2,6). This requires adequate investment in technology to detect and prevent plagiarism, as well as deter students from engaging in the practice. Many faculties of law of Nigerian universities have increased the fight against cheating in examination or examination misconduct, however, very little is done to discourage students from engaging in plagiarism. The fight against plagiarism must begin at the stage of training law students in the law faculties, even as efforts to criminalise the practice are channelled into passing effective legislation. In addition, external examiners must, more than is currently the case, critically examine the final year long essay (research projects) during their assignment in a view to determining their relevance and academic worth (Osimiri *et al*, 2009: 65-81). Nevertheless, a more sustainable solution to the problem of plagiarism in Nigeria lies in the level of success recorded in the effective teaching of research methodology/methods in Nigerian universities (including the law faculties) – which takes us back to the first recommendation above.

## REFERENCES

### ***Statute***

Interpretation Act, Cap I23 Laws of the Federation of Nigeria, 2004

Legal Education (Consolidation, etc) Act, Cap L10 Laws of the Federation of Nigeria 2004

### ***Cases***

*Ashodown v Telegraph Group Ltd.* [2002] Ch. 149

*Hubbard v Vasper* [1972] 2 Q.B. 84

*Lawson v Afani Construction Co. Ltd.* [2002] 2 N.W.L.R (pt. 752) 585

*Ojengbede v Esan* [2001] 18 N.W.L.R (pt. 746) 771, 790

*Shell-BP v Federal Board of Internal Revenue* (1976) 1 F.N.L.R. 200

### **Books**

Asein, J (2012) *Nigerian Copyright Law & Practice*, 2nd edn, Abuja: Books and Gavel Ltd.

*Canadian Guide to Uniform Legal Citation* (2014) 8th edn, Toronto: Thomson Carswell

Cownie, F (2004) *Legal Academics: Culture and Identities*, Oxford and Portland: Hart Publishing

Dernbach, JC and Singleton II, RV (1981) *A Practical Guide to Legal Writing and Legal Method*, Littleton; Fred B. Rothman & Co.

Gall, MD, Borg, WR and Gall, JP (1996) *Educational Research: An Introduction*, 6th edn, Pearson

Garner, B (ed) (2004) *Black's Law Dictionary*, 8th edn, West Publishing Co.

Leedy, PD and Ormrod, JE (2010) *Practical Research: Planning and Design*, 9th edn, Harlow: Pearson

Columbia Law Review, Harvard Law Review, University of Pennsylvania Law Review, and Yale Law Review (2015) *The Bluebook: A Uniform System of Citation*, 20th edn, Claitors Pub Div.

Vibhute, K and Anynalem, F (2009) *Legal Research Methods: Teaching Materials*, Justice and Legal System Research Institute

### **Chapter in books**

Emiri, F and Eimunjeze, F (2012) 'Economics and the Problems of Jurisprudence' in Essien, E. (ed), *Law: All-Round Excellence*, Accra: Toplaw Publishments Ltd.

Meredith, S and Nolan, D (2012) 'Introduction' in *Oxford Standard for the Citation of Legal Authorities* 4th edn, Oxford: Faculty of Law, University of Oxford

Strong, SI (2014) 'An Introduction to Writing Law Essays and Exams' in Strong, SI *How to Write Law Essays and Exams* 4th edn, Oxford: Oxford University Press

Worika, IL (2004) 'Writing Research Papers, Dissertations and Thesis: From Choice of Topic to Final Work' in Nwosu, KN (ed) *Legal Practice Skills and Ethics in Nigeria*, DCON Consulting 362

### **Journal articles**

Arwa, JO (1998) 'Towards a Better Legal Education for the New Century: A Student's Perspective' 77, *Commonwealth Legal Education (Newsletter)* 16

Bayat, MS (2008) 'A Brief Taxonomy of Academic Research with Special Reference to the Research to the Proposal at the Cape Peninsula University of Technology of Technology (CPUT)' *Journal of Business and Management Dynamics* 45

Canadian Committee on Legal Research (1956) 34 *Canadian Bar Review* 999

Emiri, OF (2016) 'The Place of Economics in the Legal Academy and Law Faculty Curriculum' 9(1) *Nigerian Law Journal* 1

Randolph, J (2009) 'A Guide to Writing the Dissertation Literature Review' 14(13) *Practical Assessment, Research & Evaluation* 1

Ibijola, EY (2014) 'Accreditation Role of the National Universities Commission and the Quality of the Educational Inputs into Nigerian University System' 2(9) *Universal Journal of Educational Research* 684

Muhammad, I (2015) 'That this Profession May Not Die: The Need to Flush out Miscreants from the Nigerian Legal Profession' 5(1) *Journal of Sustainable Development Law and Policy* (Afe Babalola University) 219

Ojukwu, E (1998) 'Revisiting Legal Training in Nigeria: Wanted a Mandatory Continuing Legal Education Programme' 1 *Journal of Commercial Private and Property Law* 19

Onwudinjo, OT, Nwosu, CO and Ugwu, CI (2014) 'Accreditation Issues in Faculty of Law of Nigerian Universities: Imperatives for Law Libraries, Laws and Statutes' *Library Philosophy and Practice (e-journal)*, available at <<http://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=3037&context=libphilprac>> 1172

Osimiri, J, O'Sullivan, M, Okogbule, N and Okene, OVC (March 2009) 'External

Seims, MM (2008) 'Legal Originality' 28 *Oxford Journal of Legal Studies* 147

**Newspaper articles**

Collins, N (8 June 2010) 'New Plagiarism Penalties for Cheating Students' *The Telegraph*, London

*The Nation*, (20 September 2016) 'Bar Racket' Lagos

**Institutional/other sources**

Boston University (1 September 2011) *Boston University Academic Conduct Code*, available at <<http://www.bu.edu/academics/files/2011/08/AcademicConductCode.pdf>> and <<https://www.bu.edu/academics/policies/academic-conduct-code/>>

Harvard Law School (2017) 'Legal Writing' available at <<http://hls.harvard.edu/dept/opia/what-is-public-interest-law/public-interest-work-types/legal-writing/>>

Harvard University (2017) 'Harvard Guide to Using Sources' *Harvard Plagiarism Policy* Harvard College Writing Program, available at <<http://isites.harvard.edu/icb/icb.do?keyword=k70847&pageid=icb.page355322>>

Jovanović, M 'Legal Methodology & Legal Research and Writing: A Very Short Introduction' 1, available at <<http://pogestei.ius.bg.ac.rs/docs/Legal%20methodology%20and%20legal%20research%20and%20writing.pdf>>

Nigerian Association of Law Teachers (2016) *Uniform Citation Guide-Style of Referencing*

Queens University Library (3 October 2016) *Legal Citation*, available at <<http://guides.library.queensu.ca/legal-citation/cases>> and <<http://guides.library.queensu.ca/legal-citation/secondarysources-electronic>>

Simon, M (2011) 'Assumptions, Limitations and Delimitations', available at <<http://dissertationrecipes.com/wp-content/uploads/2011/04/AssumptionslimitationsdelimitationsX.pdf>> excerpt from Simon, M. K. *Dissertation and Scholarly Research: Recipes for Success* 2011 edn, Dissertation Success LLC

Steytler, N and de Visser, J (August 2012) 'Guidelines for Proposal and Dissertation Writing'

University of the Western Cape

University of California Berkeley (January 2012) *Berkeley Campus Code of Student Conduct* s. V.102.01, available at <[http://sa.berkeley.edu/sites/default/files/UCB-Code-of-Conduct-new%20Jan2012\\_0.pdf](http://sa.berkeley.edu/sites/default/files/UCB-Code-of-Conduct-new%20Jan2012_0.pdf)>

University of Canberra Library & Academic Skills Program (2010) *A Guide to Referencing with Examples in the APA & Harvard Style*, 6th edn, University of Canberra Library available at <<http://www.canberra.edu.au/library/attachments/pdf/referencing-guide.pdf>>

University of KwaZulu-Natal Library (January 2009) 'Guide to Footnoting in Law', 1, available at <[http://library.ukzn.ac.za/pdfs/Law/Law\\_Guideto\\_footnoting.pdf](http://library.ukzn.ac.za/pdfs/Law/Law_Guideto_footnoting.pdf)>

University of Oxford (2012) 4th edn, *Oxford Standard Citation of Legal Authorities* (Faculty of Law, University of Oxford)

University of South Carolina (13 December 2016) 'Organizing Your Social Sciences Research Paper: Theoretical Framework' *Research Guides* available at <<http://libguides.usc.edu/writingguide/theoreticalframework>>