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An Overview of the Challenges Facing Law Student in Research Writing Process: A Guide towards Good Research Writing

Noel Edward Tagagas Nkombe

An Assistant Lecturer, Faculty of Law, The Open University of Tanzania, Tanzania

Abstract:

Legal research is a demanding activity requiring legal researchers to be curious, persistent, flexible and serious. These attributes are not universal to all lawyers or law students; rather it depends on different background and individual ability in research writing process.¹ The legal research is under immense pressures especially in the aspect of writing process. The quality of research papers written by most of law students has raised many doubts to stake-holders on the aspect of the contents and standard. It is apparent that research writing is a tedious process which requires wide knowledge of writing skills. The writing process is considered to be the core activity in research preparation which involves systematic procedures to be followed by the researcher. The major challenge in research writing process is on how to present the assembled relevant information in a single document known as a research paper or dissertation or thesis.

This article intends to reveal various stages involved in research writing process which ought to be known by the law students in order to improve legal research writing. These stages if are not well known to law students and may lead to poor research writing which cannot contribute significantly in improvement of law.

This article further explores, the challenges facing law students in research writing process. These impediments include but not limited to, lack of systematic guidance on writing the research, poor writing skills, weak data analysis knowledge and in-adequate references or guidance on part of students on how to go about with their research.

Finally, this work aims at laying down a systematic guide for good research writing to law students which will act as a point of reference to both undergraduate and postgraduate students. It is the positive expectation of the author that, this article will reduce the current challenges facing law students in legal research writing process.

Keywords: *The following terms needed to be defined in the context of this paper: Research, legal research, good research and research process.*

Research is creative work undertaken on a systematic basis to increase the stock of scientific and technical knowledge, including knowledge of man, culture and society and the use of this stock of knowledge to devise new applications.¹

Research is a careful study of subject, especially in order to discover a new facts or information about it.¹

Generally, it is the systematic investigation on specific problem with the aim of obtaining the well-founded answers after making thorough study and finding relevant solution on the problem at hand.

Legal research is a systematic finding or ascertaining law on the identified topic or in the given area as well as an inquiry into law with a view to making advancement in the science of law.¹ Therefore, legal research basically aims at identifying legal problem, making and inquiry into loopholes in existing laws, giving the solution and suggestions for the change or amendment of policy or law. Good research; it is very difficult to describe in few words what real constitute good research, however the ambit of good research is centered in simple conceptualization, constant reflection, interpretation and making the research more useful and meaningful. It is expected that a good research will reflect the objective and must have the relevant findings and conclusion. It will always aim at identifying the specific problem as well as improving or changing the law.

Research writing process refers to the activities involved in writing research paper from the time drafting process begins to the time when the research is published for examination and references.

1. Research Writing Process

One of major difference between legal research writing and other writings is that, legal writing has to go beyond repeating or summarizing what the law is; legal writing must analyze the likely solutions for a unique prevailing problem. To do this, it must be proved to the reader what the current law is, based on all the relevant authority found while researching. Then it must explain how that law applies in the research situation and predict an outcome. This analytical process seems simple in the abstract, but it can be very difficult in practice. Assume in a given research problem, there are only four cases on

the issue researched upon written by different judges, at different times, to address different factual situations. They may contain four different explanations of the same law; in that situation all these cases must be reconciled to state a single rule of law.¹

Research writing process as has been discussed previously is a broad term which requires variety of knowledge from students in order to come up with good research. Various scholars have divided research writing process into five steps, these include prewriting, drafting, revising, editing, and publication. This article will discuss this process in detail by showing its relevance and how they may assist student in research process.

Prewriting stage; the first step of the writing process is prewriting or planning stage. During prewriting, student should think about his or her topic, brainstorming, focusing, and developing a working thesis. At this stage the researcher should know what exactly is to be written, he ought to think and re-think, for example a researcher who is writing on challenges of enforcing Cyber crimes in Tanzania, will have to think on the social economic environment of Tanzania, the extent of technological advancement, telecommunication infrastructure etc.

The research also at the stage must think on what he wants to achieve in his research and who are the audience and what will they achieve from that scholarly work. It is also expected that the research should possess personal ideas about the problem he is writing. The reference from other authors should be used polish the original ideas of the researcher and not emulating what has been previous discussed by previous authors.

Drafting, it should be noted that drafting is an art, there is no uniformity in drafting process rather it depends on individual ability of writing and style which definitely differs from one person to another. It is important to remember that a drafting does not need to be perfect in the first place; the goal of the drafting stage is to take the outline and develop a paper. When drafting, the researcher should not worry about the mechanics of his or her paper rather he should focus on the content and make sure that the ideas are clear and well detailed.²

The fundamental question which ought to click into the heard of the researcher at this stage is whether the ideas are well organized or not; which information should be included in writing process and which should be omitted, what should be added in order to make the research paper more meaningful than ever before? Does the drafting at hand achieve the original goals or not and whether it is well understood by the audience in question. It should be noted that drafting is endless exercise which ought to be done several times before revising process come in place.

Revising, the other step of the writing process is revising. During revising, the researcher should read his or her writing and look at the content, when revising think as if you are looking at the big picture.³ Revising is very a tiresome work which requires some sort of relaxation soon after completing drafting process. After drafting process, the draft paper becomes too rhetorical to the drafter and bore some. Every word will be clicking into the mind of the writer hence very easy to ever look or over sighting what has been written.

It is advised that there should be reasonable interval of time after the completion of drafting process and revising process. The researcher has to forget everything he has written in drafting process and assumes that he is reading a new document which he has never come across throughout his life time.

It very important that, at this stage the research should pass through every word in documents by checking the correctness of the drafted document, the researcher should keep away with other issues while making this exercise. For example, this work should not be done while the research is not attending other duties like making telephone conversation, attending clients or enjoying some entertainment. At this stage any reasonable change may be done without destructing the original document which has been previously drafted.

It is advised that the researcher should read the written paper out loud. While it may seem strange to read out loud, it is the best way to really hear your paper as you read. The main ideas should be well identified and supported, check if the topic and sentences are good, check the style, tone, and language and sentence structure. Lastly, the research should focus on making changes on the contents. In this last step more details may be added, some will be taken away, and more definitions may be added for clarity, ensure clarity of pronouns, and change the sentence order for purpose of improving the document.⁴

² Christina L.K, et al (2004) The process of Legal Research , (6th Edn) Aspen Publishers P. 26

³ Benoit G, Defining R&D: Is Research Always Systematic? Project on the History and Sociology of S&T Statistics, Paper No. 7, 2001, Canada p. p.2

⁴ Turbbul D, Et al, (2010), Oxford Advanced Learners Dictionary, 8th Edition, USA, Oxford University Press p. 1255

⁵ Frances K. Stage & Karen Manning, Research in the College Context: Approaches and Methods (2003 Brunner-Routledge, New York) P. 8

⁶ S. E. Rowe,(2009), Legal Research, Legal Writing, and Legal Analysis: Putting Law School into Practice, Stetson Law Review P. 11

⁷ S. E. Rowe,(2009), Legal Research, Legal Writing, and Legal Analysis: Putting Law School into Practice, Stetson Law Review P. 5

⁸ S. E. Rowe Ibid

⁹ S. E. Rowe,(2009), Op cit P. 5

Editing; Edit, edit, edit, and edit again. Typos, bad grammar, and misplaced paragraphs may simply be taken away from your argument by editing several times without counting how many times the document has been edited.⁵

Editing stage aims at correcting errors, at this stage the researcher may use even third part to pass through his paper and editing it. Though not very much advised because the third part may fail to grasp instantly what has been clicking in the head of the researcher but it is often advised that the research should use a person who is well acquainted with the subject matter, it is important to slow down and take your time with this step.

Publication; Publication is the final step in research writing process, this step is done after completing all previous four steps. After satisfying that editing is complete the researcher and after the permission from the research supervisor the researcher may be at a position of publishing the work. The publication step involves all setting properly the document through the standard format, for example line spacing, font size, numbering etc, before publishing the document the researcher should use experts to ensure that the document is professionally published. For example, try to use the re-known publication experts who are well experienced in publication activities.

2. Guide towards Good Research Writing

The key to success in researching legal issues is realizing that research is a process. It is not easy to memorize every case; however, the researcher should master the overall process of research. Once he has mastered that process it is easy complete almost any research task with confidence. The first step in any research process is ensuring that you understand the issue to research upon. In law, understanding the question can be as difficult as answering it.⁶

The first thing that a researcher need to do before writing research paper is to have a thorough look at the precise formal requirements of the research paper for example length, structure and topic choice. ⁷ Just as it is applied in exam that before attempting questions the candidate must begin every exam by carefully reading the question; start research writing process by familiarizing yourself with the precise formal requirements of the research paper.

The legal research should base on analysis of law, judicial opinions, statutes and constitutions principles applicable in a particular circumstance. It will be very ridiculous for a lawyer to write a research paper without referring to relevant legal authority.⁸ There is a common say for researchers which says no research no right to speak likewise for lawyers no authority no right to speak. Therefore, is advised that the research should use both primary source and secondary source to substantiate his arguments in due course of writing research paper.

Choosing a good topic or research question, the researcher should choose a good topic which is researchable and interesting. It should be kept in mind that researcher ought to deal with a topic which is well understood to him in order to be able to articulate some kind of added value. He or she should look over the course syllabus which he is very conversant and interesting to him.⁹

Research plan, the researcher uses different approaches to develop a good research plan which will obvious involve application secondary and primary sources as well as updating. Some prefer to start with an encyclopedia or an article that gives a broad scope of the issues. Others like to begin by reading cases. As they gain experience in researching legal issues, this assists in finding certain approaches that fits the situations of the researchers. One of the skills ought to be developed is planning a research strategy that is appropriate with the matter in question. The researcher should be flexible as he begins to use his strategy and be willing to make changes as he learns more about the issue, the applicable law, and the research sources available.¹⁰

Determine the availability of materials in the proposed research topic. Determine what sources will need to be relied in writing research papers. Experience shows that some of researchers while in writing process find that there are no enough materials to support their writing process. Consequently, they request from the supervisors in the middle or at the end of the set time to change the topic for lack of materials. It is therefore important before one decides to write something he should be at a position of ascertaining the available materials in that aspect or field.

Take your time with the planning process.¹¹ In research writing process, a research should plan and organize his work for example what should be expressed in first time, type of information need to be written in particular chapter, the relevant authority supporting a given idea. All these should properly be done in writing process. It is worth to plan and organize your work in proper way to avoid the final stack in writing process.

¹⁰ Painter M.P, 30suggestion to Improve readability or How to Write for Judges, Not like Judges, Ohio First District Court of Appeal Taft Law Centre P. 15

¹¹ S. E. Rowe,(2009 Op cit P. 6

¹² Sofie A. E. H, (2013), How to Write a Law Paper in English, PhD Fellow in Law at the Department of Public and International Law

¹³Sofie A. E. H, Ibid

¹⁴Sofie A. E. H Op cit p. 7

¹⁵ S. E. Rowe Opcit P.5

¹⁶ Deirdre Schwiesow (2010), Research Challenges (And how to overcome them) retrieved from <https://www.waldenu.edu/about/newsroom/publications/articles/2010/01-research-challenges> 10/05/2016

Research writing process is tedious and demanding work, any researcher ought to commit himself to write several times, to labour endless, to make corrections every time and to believe that it is through several errors where one can hardly succeed and make a perfect research. It should further be remembered that no researcher ought to get tired of his research writing process however difficulty it may be. The more difficulty the research becomes the more perfect the research is likely to be.

3. Challenges Facing Law Students in Research Writing Process

There is nothing new in the notion that law students have troubles in understanding how to conduct and write efficient legal research, nor are some of the reasons for this phenomenon hard to understand. The law is, after all, a complicated web of interrelated doctrines and often contradictory interpretative texts.¹² Students may be very much interested in writing research paper, however when writing process comes in it becomes very difficult for them to present their ideas and the findings in a single document known as research paper. The following are challenges facing law students in research writing process.

Lack of clear guideline from the Universities, some universities miserably lack research guideline which may be used as reference. This situation affects most of students in great extent as they will fail to know which format should be adopted. For example, student who is Pursuing LLB at the Open University of Tanzania, while conducting and writing his research may resort to the guideline of Harvard University because his university has no a clear guideline of writing research paper. Every university ought to have the guideline for the purposes of research writing. This will create uniformity and certainty among students and lecturers in a given institution in research writing process.

Lack of research interest and experience,¹³ this study shows that research has been a threat to most of student on the ground that, they lack experience in conducting research, therefore one may conduct research if and only if it is a mandatory requirement for the award of his LLB or LLM, if that is not the case most of students are not willing to undertake this study. Imagine if research writing course was not a mandatory course in most of high learning institution only few students would show interest in undertaking this course.

Lack of constant guidance from the supervisors, most of the professors and lecturers of the universities are too much busy. They hardly provide narrow guideline to their supervisees because of lack of time and being busy expecting the students are aware of what is supposed to be done in research process. With this trend it becomes very difficult to student who has no good research background to articulate and write a standard research to present for the purposes of improving the law. That is why research writing process has been very difficult to students hence resorting to some research experts who write on their behalf for the purpose of earning their degree.

Difficulties in data analysis and interpretation, experience shows students are facing difficulties in writing process, because after collecting data, most of them fail to interpret and present them in writing. This poses a challenge to law students. The cause of this problem as discussed earlier is lack of research skills possessed to law student.

Lack of adequate theory in the area being researched on,¹⁴ some students are indulging in doing research on areas which are complicated and lack adequate theory or background. It is therefore very difficult to come up with good research paper on an area which is not well known by the researcher. For example, an LLB students who did not pursue Tax law course in his undergraduate level, but during research time he or she resorts to make research in one of the topic in tax law. Under this circumstance it obvious that he will be lacking the basic background to enable him to make a reliable research.

Lack of commitment and motivation to do the research,¹⁵ now days it very disappointing that some students are no longer interested in making research. As a result, when it comes an issue of research writing process it is very difficult to expect this student to articulate something which he has no interest. It goes without say that this student will miserably face challenge of writing his paper because he has not interest and he does not have any research interest. It should be noted that it only through motivation where a person can write properly and bring changes in the field of law.

Language problem, legal research writing process often involves the legal language which in some point of time has its own unique style which is not familiar to some young scholars. The use of English or other foreign languages not known to research presents considerable challenges to researchers. For example, to researchers whose English language is not their mother language they may face the great challenge when writing research paper, they may fail to harmonize the proper use of some words or vocabularies, grammars, etc. that is why when the work of such researcher is sent to any language experts it may have millions of corrections something which discourages the researcher.

In adequate of libraries with enough books and materials, since the process of research writing requires the use of authorities some library in higher learning institutions lack libraries which are rich of references materials for the purposes of

¹⁷ S. E. Rowe (supra)

¹⁸ Thomas, J.R. and Nelson, J.K. (2001), *Research Methods in Physical Activity* (4th Edition). Albany: Human Kinetics P.8

¹⁹ Tichaona Mapolisa and Onias Mafa, Challenges Being Experienced by Undergraduate by Undergraduate Students in Conducting Research in Open and Distance Learning International Journal of Asian Social Science 2(10):1672-1684, Journal homepage :<http://www.aessweb.com/journal-detail.php?id=5007>

²⁰ Ibid

²¹ Tichaona Mapolisa and Onias Mafa, Op cit p. 1675

research. When law student visits library and that there is no any reference material hence unable to write their papers as planned. This discourages students in research writing process hence ending up writing researches which are not indeed authoritative rather political oriented research paper.

4. Brief Summary and Conclusion

Research writing process for law students has been posing challenges to most of scholars as it has been well illustrated herein above. The reasons for such abominable situation have further been pointed out in this article which includes poor background among students, lack of research skills, lack of commitment and interest to conduct research, lack of clear guidance from research supervisors and lack of guideline on research paper writing from the institution. It is said that many law students are not willingly to conduct research because of some hindrances discussed in this article, which some are students oriented, some are institutional oriented and some are instructors oriented.

From the finding of this article it is recommended that in order to improve research writing students among the law students the following should be done;

All higher learning institution should prepare a clear guideline to law student on research paper writing process. There should be clear format showing the way research paper ought to appear and that all students from a given institution ought to adopt. This will create consistence among the students and make consistence in terms of research paper. It is very strange to find out that law students from the same institution have a different research paper in terms of format for the purpose of presentation.

Research supervisors should spend much of their time to constantly instruct the supervisees on every step of writing process. This will remind students on what is required in every chapter to be written in their papers. The experience shows that students are instructed just to write the whole research paper and submit the research draft to the supervisors for guidance, which somehow does not bring any sense to me. The best practice would be in every step of writing process there should be guidance from the supervisor to eradicate discouragement from the supervisors to students, it is a normal practice for example for a student to develop the whole research and when he submits the first draft, he or she is told there is no legal problem, and therefore advised to find the other topic. If under these circumstances there has been constant guidance by the supervisors in every step of writing process, no law student would be discouraged to re-write his thesis or dissertation.

Law student should develop interest the spirit of writing research, there is no out where students can be conversant in writing process if there is no commitment and interest. It is through commitment where writing process becomes easy and achievable. Law students are advised to serious commit themselves and develop interest in research writing because without interest and self commitment nothing may be done in writing process. Commitment is key of success in every activity of researcher and interests strengthen the students in research writing process.

The Universities should impart adequate skills to law students on research writing research writing. Most of law students do not posses adequate background of research writing. When they join universities, there are only the imagination of research writing and hardly think what will happen when the time comes for them to develop a research paper. It is proper time for the universities to teach effectively research oriented course in order to impart adequate knowledge to law students which will be useful in research writing process.

Improvement of the availability of the research related materials in the library. It has been experienced that some universities libraries lack adequate materials which may assist students to make references in research writing process. It is a fact that in absence of materials references in university library it will be very difficult to students when beginning writing process, student may stack merely because there nowhere to make references. It is my sincere suggestion that, all universities should give priorities to their library as the source of all knowledge to their students and acts as a bridge in research making process.

5. Conclusion

Research writing process requires much commitment than merely writing, it needs extra legal research skills and it is an art possessed by individual researcher developed through regular and constant instructions and individual exercise. It is often perfectly achieved by individual interest, commitments, sacrifice, toiling and high degree of tolerance. Research writing process is beyond reproducing the material; it involves clear research organization, data analysis and findings and preparing single documents known as research paper with related and relevant ideas depending on what was initially was intended by the researcher.

It is the ideas of most scholars that, good written research can bring significance changes in the field of law and harmonize the legal related problem addressed thorough research activity. Much have been said in this paper, it is the sincere hope of the author that, students and the government should try their level best to improve the above addressed challenges in order to develop good legal research.

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