LEGAL RESEARCH

CONTENTS

TOPIC 1

- INTRODUCTION;
- 1.1 Defining Research

Cont…

- There is no single definition as to what is Research. A number of authorities have provided different definitions of research. Below are some definitions of the term Research;

Cont…

- Is the scientific search for pertinent(relevant, appropriate, suitable, applicable) information on a specific topic.
- It consists of defining and re-defining problems, formulating hypotheses or suggested solutions to collecting, organizing and evaluating data.
- It is also described as a search for knowledge.
- It is an art of scientific investigation.

Cont….

- It may also be defined as a Systematic Inquiry in Search for New Knowledge using Scientific Methods
- It involves
- Defining and Redefining the Problem
- Formulating Research Questions or Hypothesis
- Collecting, analyzing and interpreting data/findings
- Making useful conclusions and recommendations

Types of research

- Descriptive vs Analytical Research
- Descriptive includes surveys and fact-finding enquiries of different kinds
- In Analytical research, a Researcher uses facts or information already available and analyze them to make a critical evaluation of the material
- Fundamental vs Applied Research
- Fundamental (pure or basic) research is done on hard science
- Applied research deals with finding solutions for an immediate problem facing a society, an industry or a business organization

Cont…

- Quantitative vs Qualitative
- Quantitative research is based on measurement of quantities or amount
- Qualitative research deals with all aspects of qualitative nature or attributes
- Conceptual vs Empirical Research
- Conceptual research is related to some abstract idea or theory
- Empirical research relies on experience or observation alone, often without regard for system and theory

Purpose and Role of research in law

- In law, research is usually undertaken to find out the truth which may be hidden or obscured in legal jurisprudence or that which has not been discovered yet(Majamba H)

Cont…

- To acquire and impart knowledge for purposes of proving or disapproving a legal issues
- To extend ideas or develop new ones in the legal scholarly literature or a dispute.
- To justify the existing status quo(existing state of affairs).
- To discover answers to questions through the application of scientific procedures

Objectives of conducting legal research

- To change or influence perceptions/attitudes/behaviors of society members with regard to their perception of law and how legal issues affect their day to day lives generally.
- To influence policy and legislative changes with a view of influencing their decision making mechanisms.

Cont…

- To draw the attention of lawmakers and the processes – courts, law reform commissions, legislators on the perception and trends of society members' on controversial legal issues.

Usefulness of legal research

- Contribute to existing knowledge on legal literature i.e. Legal research is useful in filling gaps on existing knowledge on legal literature.
- Provoke ideas, thoughts and new paradigms on long held tenets to bring change through lobbyists and other civil society organizations/associations.
- Justify legal frameworks/discourse.
- test established legal theories and doctrines

Position in the Constitution of URT 1977

- The need to conduct research is not expressly also referred to by the Constitution of the United Republic of Tanzania.
- Article 18 (1) clearly provides that every person has the right to seek and impart information.
- Article 18 (2) provides that every person has aright to information on events and developments in and outside Tanzania that is relevant to his or her being and also to be informed on the general matters relevant to society.

Cont…

- One of the ways of imparting or seeking information is by way of undertaking research. Also, in order to fully enjoy the right guaranteed under Article 18 (2), research in a variety of disciplines must be undertaken.
- We should also state here that the importance of research has been given prominence by the Constitution as a factor that can cement relations within the Union structure.

Cont…

- This partly explains why research and statistics (an important component of research) have been included in the list of Union matters provided for under the First Schedule to the Constitution of the United Republic of Tanzania.

Cont…

- The inclusion of item 19, which places research on weather forecast in the list of Union matters further goes to show the importance of research. (Majamba H at page 5)
- Read the case of ***Shaban Khamis Mloo et al vs. The Superintendent of Zanzibar Prisons et al*** [1991] TLR 21

Courts decisions

- In the case of ***Mbushuu and Another vs. Republic***, [1995] 1 LRC 216 at p. 232 the Court acknowledged indirectly, the importance of thorough research in writing judgments when it was stated that:

Cont …

- ***“Before we finish, we commend the trial judge for his excelled industry in his exploration of the human rights literature. However, we would also like to point out that the style he has used in writing the judgment, dividing it into parts and sections, with headings and sub-headings is unusual. That style is more suited for a thesis than a judgment.”***

Cont…

- The court noted the absence of research on whether the death penalty is the most effective punishment when it stated;
- ***No research on this has been conducted in Tanzania***…” (supra)
- This implies that the courts are of the view that there is a necessity of conducting legal researches .

CONT…

- Reference to the relationship between research and judgments and the need for Counsel to conduct research when making submission was provided by Judge Barnabas Albert Samatta (as he then was) in the Zimbabwean case of ;
- ***Barker McCormac (Pvt) Ltd vs. Government of Kenya***.

CONT…

- In this case, the former Chief Justice of Tanzania addressing an issue not well researched upon by Counsel observed:
- “***No authority from our jurisdiction or from South African jurisdiction directly in point as cited to me and I have been no more successful in my own researches.”***

CONT…

- In the case of ***Bihawa Mohamed vs. Ally Sefu***,

the late Chief Justice Nyalali made reference to a paper published in a ***Medico-Legal Journal*** to show that researchers had indicated developments that support the argument that a wife's contribution to the division of matrimonial assets ought to be considered

Cont…

- Papers presented at conferences or seminars by academics are usually products of in depth research.
- The reference to research studies and papers by courts is very common.
- The court in this case also referred to the proposals made by a Commission that was charged to undertake research on the law of marriage and divorce in Kenya.

Cont…

- ***Rabin Mukherjee vs. State of West Bengal*** the court heavily relied on research findings to prohibit indiscriminate noise pollution. It took judicial notice of the research findings which revealed that persons who were staying in the vicinity of an airport were often victims of various ailments including mental disabilities.

Cont…

- Read also the case of ***John Mwombeki Byombaliwa vs. the Regional Commissioner and Regional Police Commander [1986] T.L.R 73.***

REFERENCES

- 1. Glanville Williams, Learning the Law, Chapter 12
- 2. Moris Cohan et al, Legal Research in a Nutshell, St. Paul Minnesota, West Publishing Con. 1992
- 3. Pollacks Fundamentals of Legal Research, (4th Edition) Jacobstein and Mersky, 1973
- 4. Price and Bitner, Effective Legal Research, (1968)

2. APPROACHES TO LEGAL RESEARCH

- **Identifying Research Area/ Legal Problem**
- 2.1 Indicators:
- - Is the area researchable given time, resources, contacts and availability of data?
- - Will the result of the research be of interests to others?
- - Has the identified problem been a recurring subject in the media coverage and of particular interest to either the local, regional and international community? Whether controversy or divergence of opinion surrounds the legality or illegality of issue.

CONT…

- - Has the problem provoked debate among legal scholars, lawyers, civil society?
- - Has the problem been addressed by the court in a manner that has raised/provoked concerns, criticisms or general disapproval?
- - Before proceeding, seek reactions from colleagues, noted authorities and research and academic supervisors in the field/area.

Cont…

- It should be noted that in order to have a researchable legal problem, then the problem should be seen from the eyes and perspective of members of society who are affected within a given locality.
- The problem should not be envisaged by the prospective researcher without first integrating with society members.

Cont…

- i.e.
- The problem must be identified by society not the researcher
- The problem should be one of law. It should have ramifications that are not only related to the social aspects of society but should be linked to the law.

2.2 Choosing a Research Topic/Title

- Drafting a working title helps focus the direction of the research.
- - Focus the topic by describing it succinctly (briefly and clearly presented) draft a working title and consider whether it is researchable.
- -It should, on the face of it, be capable of being identified in the legal discourse
- Be concise try to describe the focus in a sentence:

CONT…

- - Frame the topic in a way that a reader may easily grasp its scope and meaning.
- -Also it should be framed in a way that when one looks at the wording of the title, he/she should, with little difficulty, identify it with law.
- - Eliminate unnecessary words such as “An Approach to….” Consider a title that is not more than 12 words.

3. FORMULATING THE RESEARCH PROPOSAL

- 3.1 Defining a Proposal
- A skeletal/framework that sets out the strategies to be employed in undertaking the research. It is an outline that sets the basis upon which the research will be founded.

CONT…

- 3.2 Body of Proposal
- Proposals usually contain the following parts:
- (a) ***Introduction*** – statement that describes a potential research or study explicitly. It defines concepts and provides a guide on the way the work is structured. (Background of the problem)

CONT….

- (b) ***Statement of the Problem*** –(Give a precise definition or description of the problem to be investigated showing the important issues to be covered) How is the problem you seek to research on manifested in society – show data, e.g. from newspapers etc (to emphasize that the problems is there)

CONT…

- (c) ***Methodology***; Techniques to be applied when collecting data – What methods and how do you proposed to ensure that the data collected is authentic or contains true facts?

CONT…

- (d) ***Hypothesis/es*** – the general propositions or suppositions/assumptions you are setting out to test against the data or findings to be collected or made. These are uncertain propositions that a researcher makes in an attempt to explain; phenomena without having had an opportunity to find out the casual explanations in the field

CONT…

- (e) ***Significance and Objectives of the research*** or Justification of the Study – who is the study directed to – policymaker, legislator, civil society, the public, academicians – what does the research want to achieve – change of behavior, reform of law.

CONT…

- (f) ***Literature Review:***
- Purpose:
- (ii) Analyze the results of other legal studies that are closely related to the research being undertaken
- (ii) Relates study to the larger on-going legal discourse/ dialogue in the literature about the topic, filing in gaps and extending prior studies

Cont…

- (iii) Provides a basis for justification of the research being undertaken
- (iv) Provides a benchmark for comparing the results of a study with other findings
- (g) ***Preliminary Bibliography*** – Needed before writing starts in order to get a range of literature on a given topic.

Cont…

- The preliminary bibliography must contain books, journal articles, statutes (principal and subsidiary legislation), case law, dissertations, research reports, commission reports, Bills, international legal instruments newspapers and magazines. Pamphlets and monographs should also be included. All these should focus on and be relevant to the theme of the research.

4. Collection of Data in the Field

- What is a Field Research?
- Field research or field work in legal research is essentially both a data gathering strategy and theory generating activity.
- It is an “outdoor” (meaning outside the confines of a law library or a legal documentation center) activity that is useful for studying legal related topics, phenomena or people within natural settings and for investigating social legal processes over time. (H.I. Majamba).

Cont…

4.1 investigating social processes

- What may be investigated?
- (i) Culture, norms and traits and their effect on legal process, or how the legal process has transformed them
- (ii) Law related practices involving behavior – e.g. Whether imposition of sentences in criminal law reforms offenders
- (iii) Legal Relationships – family, corporations etc

Cont…

- 4.2 **Research tools**
- Research tool as used in this context basically refers to the instruments that are used by the researcher to collect data or information.
- Depending on the kind of methodology employed, a researcher would use either primary or secondary tools in the course of collecting data from for the research.

Cont….

- 4.2.1 **Primary Methods/tools**
- Primary tools are those that the researcher would employ while conducting field research.
- There are a number of tools that a researcher could employ, depending on the nature and enormity of the research.

Cont…

- 4.2.2 ***Secondary and Primary Data***
- - Primary data – obtained by researcher through personal observation – raw information obtained in field and examined by the researcher
- - Secondary data – obtained from second source, not researchers own observations/findings in the field – obtained by other researchers/scholars but is used by the researcher. Usually obtained through library research.

4.3 Advantages and Disadvantages of Primary and Secondary Data

- a) **Primary Data**
- ***Advantages***
- – First hand information from personal observation of researcher; (guarantees correctness/accuracy of information/data)
- – Flexibility (an answer to one question may influence the nest question);
- – No element of tainted biases that may result from an observation oversight of another researchers;

Cont…

- – Copy rights vests in the researcher.
- – Conforms to the well known principle of the law of evidence – primary evidence is the best evidence
- – Enhances relationship between researcher and subject

Cont…

Disadvantages

- - Costly paying informants, transport;
- - Integrating with subjects – cultures, taboos (e.g. mingling with women, sensitive/private issues, counting subjects); too much integration may lead to researcher being too attached and then bias

Cont…

- - Subjectivity – Observations of a selected group not necessarily representative of all
- - Privacy, (may involve researcher “an invitee/ stranger” asking other people (who have invited him/her to leave the room);
- - Suspicion – “why do you (researcher) come here to ask such questions, ” is a common reaction; consciously wrong information – Taboo to disclose but subjects/respondents would not want to miss the “tip” given by the researcher.
- -

Cont…

- Sometimes necessary to use interpreters – costs, reliability, perception of subjects on the interpretation process

Cont..

- b) ***Secondary Data***
- ***Advantages;***
  - Cost effective
  - Modern technology ensures a reliable data and verifying authenticity, element of subjectivity in the field removed, also coverage of broader issues

Cont..

- Saves time, permits more comparative analysis
- Overcomes the problem of integrating with subjects
- Subjects research that has been conducted to critical analysis

Cont…

- ***Dis-advantages;***
- Costs to pay informants and establishing initial contacts
- Encourages plagiarism
- Loose recollection of author may be misleading
- Differing accounts of the same event by different author
- Those observed do not necessarily represent the reaming groups

Cont…

- Prejudice - easy to be influenced by others views
- Language barriers in understanding texts
- Subjectivity – the interpretation given by one researcher may differ from another
- Research that is funded driven usually is usually crafted to suit the funding agency/organization – terms of reference may have limited a thorough coverage of subject matter

TOOLS OF DATA COLLECTION

- Research tool as used in this context basically refers to the instruments that are used by the researcher to collect data or information. Depending on the kind of methodology employed, a researcher would use either primary or secondary tools in the course of collecting data from for the research.

Cont…

- **Primary Tools**
- Primary tools are those that the researcher would employ while conducting field research.
- There are a number of tools that a researcher could employ, depending on the nature and enormity of the research.

Cont…

- 1. Interview;
- An interview is basically an interaction, where questions are posed or a discussion takes place, between two or more people with a specific purpose in mind.
- The interview may be conducted face to face, by telephone or by the use of any such other electronic media.

Cont…

- Types of interview
- structured
- unstructured
- combination of both

cont…

- ***An unstructured interview*** consists of a person to person interaction that is conducted by the use of a guide – an interview guide, basically a list of reference questions, with a logical flow.
- In preparing for an unstructured interview, the researcher organizes a guide that has basic questions that he/she would ask respondents spontaneously during the interview.

Cont….

- ***A structured interview***, is the kind of interview where the researcher asks a pre-determined set of questions, using the same wording and order of questions as specified in the interview schedule.
- The researcher formulates questions and when interviewing, he/she does not deviate from the questions set.

Cont…

- ***Advantages of unstructured interview***
- One of the advantages of using an unstructured interview is that it is useful where in depth information is required.
- An unstructured interview is also flexible in the sense that it allows an interviewee to seek clarification on the kind of questions that the researcher asks.

Cont…

- ***Disadvantages***
- One of the main disadvantages of this tool, it has been noted, is that the interview guide that is usually prepared by the researcher does not list specific questions to be asked to the respondent.
- Therefore it is difficult for the researcher to compare the questions asked and responses obtained when making an analysis of the data/information obtained in the field.

Cont…

- ***Advantage of structured interview***
- The main advantage of using a structured interview is the fact that it provides uniform information to the researcher, making it easier to compare data obtained from different sources.

Cont…

- ***Disadvantage***
- The main disadvantage with this type of research tool is that it is generally not flexible as the researcher’s ability to ask follow-up questions is often limited.

Cont…

- ***Questionnaires***
- A questionnaire is a written list of questions prepared in a series form by the researcher on a given legal problem that are sent to respondents.
- It may be used to either extract, record or collect data.

Cont…

- The respondents are normally required to record the answers and return the list to the researcher.
- In answering the questions, respondents read the questions, interpret what they understand from the questions and then write down the answers.

Cont…

- Types of questionnaire
- i)close-ended
- Ii)open-ended..

Cont…

- ***Closed ended questionnaire***
- Leaves no room for the respondents to provide comments on the research problem.
- The views of the respondent on the problem under study are limited to the set of pre-set responses for each question.

CONT…

- ***Open ended questionnaire,***
- In the open-ended questionnaires on the other hand, respondents are often permitted a leeway in the sense that they may use their own words when responding to the questions.

Cont..

- Questions to ask before preparing a questionnaire;
- ✓ Why,
- ✓ length,
- ✓ setting questions,
- ✓ language,

Cont…

- ✓ target group.

NB; A good questionnaire should also provide specific instructions to the respondent on how to answer the questions. The researcher must always remember that when the respondent is filling in the questionnaire, the researcher will not always be there. It is therefore important that the researcher provides clear instructions on how to answer the questions.

CONT…

- **Advantages**
- (i) The researcher is able to reach out to those whom he/she would not otherwise have reached.
- (i) A researcher who opts for the use of questionnaires is more likely to save costs that would otherwise be incurred in terms of travel time.

Cont…

- (iii) A questionnaire also permits the researcher to do other things related to the research while the data collection exercise is going on simultaneously.
- (iv) To some extent, the use of a questionnaire in collecting information from respondents provides room for the privacy of respondents.
- (v) Questionnaires are more likely to ensure uniformity of data collected as the respondents answers the same questions.

Cont…

- (vi)Questionnaires are a dependable tool for data collection to the extent that they usually have the ability to provide the same results when filled out by like-minded respondents in comparable conditions.

CONT…

- **Disadvantages**
- (i) They have an inherent class bias.
- (ii) They assume a literate sample of respondents.
- (iii) Sometime respondents do not work on them.
- (IV)Sometimes respondents may not understand a question. They may need some guidance or clarification on a question as words are capable of different meanings. The researcher would not always be available to assist.

Cont…

- **Nominal/Focus Group Discussions**
- Some populations for a number of reasons may not feel either at ease with a particular method of data collection, such as being interviewed or comfortable to express opinions in questionnaire.
- Also, subjects with little or no education may respond differently to certain methods of data collection compared to people with education.

Cont…

- In such circumstances, group discussions may be of help in collecting information/data needed. In order to avoid the problems above, researchers usually carefully select a small number of people (6 – 12) and gather them at prearranged places and invite the members to openly discuss issues related to the research. The members engage in group discussion while the researcher plays a minimum role of just teasing out issues and taking notes.

Cont…

- Focus group discussions are intended to reveal some of the complex, subtle aspects of the relationship between say people and the legal machinery. They help bring onto the fore key themes on the issue and may form the basis for future studies (surveys, etc.) It is also useful to use a focus group discussion guide in the course of leading discussion or probing issues so that the group does not loose direction.

Cont…

- **Observation and Participation**
- One of the most common, although not always fully appreciated tool for collecting information from the field is where the researcher merely makes a close follow- up of or watches activities and events and draws a conclusion.
- Observation may be by a person or the use of an electronic gadget. Usually the researcher would make prior arrangements and maybe draw up a list of the events or things that are to be observed before embarking on the research.

Cont…

- Observation would ordinarily involve surveillance and scrutiny and recording by the researcher in the field, observing events and synchronizing them within the context of the theme of the study. Electronic observation may entail the use of devices such as audio or video taping where data is directly recorded on tape.

Cont…

- Observation helps the researcher to discover issues that may not come out from interviews and those that may be concealed, either knowingly or unknowingly by respondents. In some types of research, the use of observation as a data collecting tool may have problems. This is because respondents are usually best observed where they are not aware of the person observing them. Otherwise, when aware that they are being observed, the respondents normally behave in a manner that does not reflect the reality. In other words, they would act, knowing that someone is observing them.

Cont…

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Cont…

- The alternative to avoid the subjects knowing they are being observed is likely to bring up the problem of ethics. As required in ethics, a researcher ordinarily needs to disclose his identity and get the respondents consent to their taking part in the study. Also observing respondents with a view to collecting data from the field in some cases may, justifiably, view the whole exercise as an attempt to study them without their knowledge especially where the researcher does not want to disclose his identity.

Cont…

- Observation may be used as a data collection tool independent of other tools. However, in order to avoid some of the pitfalls identified above, it is recommended that the researcher combines observation with interviews together with other data collection tools while in the field.

Cont…

- **Participation;**
- In some cases, researchers have been known to take part and often opt to basically live with respondents in the same environment with them with the sole objective of collecting information for their research.
- The only motive of the researcher here is to collect data to prove or disapprove the hypothesis that the researcher advances. In such a case, it may not be prudent for the researcher to disclose his identity.

Cont…

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Cont…

- **Key Informant Interviews (KII's)**
- Key informants as the name suggests are those people who know an institution or community very well. Usually these are persons who have worked or lived in a community for long periods of time and have plenty of experiences.

Cont…

- They know the organization very well and have seen changes, proposed and implemented developments and witnessed and in some cases approved some of the main transformations in an institution. Such people have very important information which could supplement that got from documents or other secondary sources.

Cont…

- Since key informers are usually very busy people it may prove difficult for them to keep appointments for interviews with researchers. When available for interviews, there is usually the limitation of time as many other people may want to see them.
- Consequently, it is advisable to prepare questionnaires in advance and leave it with them in the even time works against the researcher.

Cont…

- It is also recommended to keep a good rapport with the key informants personal secretaries or assistants since they could provide useful opportunities that may lead to accessing the informants and providing avenues for other information. They could also serve as good collecting points for the questionnaires that are returned by the informants.

Cont…

- ***-Secondary Methods;***
  - Literature search
  - Media
  - Websites, computer assisted searches(online materials)

Cont….

LITERATURE REVIEW

- The search for and analysis of texts, journal articles, publications in the print media, public documents, archival material, legislation, policies and official records available on the research topic is one of the secondary tools used in the collection of data.
- A researcher is advised to identify and make a list of the literary works that are most closely associated with the topical issue under study. It is also important to identify the law libraries and legal documentary centers where the identified literature is located.

CONT…

- The law library at the Universities would, expectedly, be the first place where the law student undertaking research is likely to turn to for the literature search. Most law students often stop their search for literature in law sections of the University libraries. Other law libraries for example the High Court library, the national library, the national archives and libraries and documentation centers at law firms should be also consulted. Government departments' documentation centers and libraries are also a useful resource for literature search.

CONT…

- **Media**
- These includes film, radio and television and newspaper (print) media.
- Both the print and electronic media are useful secondary tools for data collection and it is advisable to check them.
- It is common knowledge that the media not only has up-to date information that may be very useful in stating the research problem, but it also usually provides useful background information to the problem being researched

Cont…

- **Websites, computer assisted searches (online materials**);
- Information on the World Wide Web changes very frequently, it is important for the researcher who is accessing data from a site to take note of (and record) the date and time. One should also make sure that the site where the information or data is obtained is properly cited. An omission of a full stop for example would be very costly and a reader would never get to locate the source where the data was obtained, thereby leaving the research report susceptible to criticism on ground of authenticity.

5. RESEARCH ETHICS

- Any discipline, profession or line of work has values, principles or moral codes that must be complied with.
- When conducting research, whether the researcher is bound to go into the field or is confined to documentary analysis in the library, there are certain morals or codes of behavior that are expected of him/her.

Cont…

- Every research that is conducted in Tanzania and the research output is generally regulated by an institution or authority that is vested with the regulatory mandate by the law in Tanzania. Legislation may also vest rights to regulate research that is undertaken in the area the law has vested the institution with overall oversight.

Cont…

Ethical issues include;- Clearance certificate, non-disclosure of research topic/area to subjects, plagiarism, copyrights (Copy Rights Act), rights of research subjects, confidentiality, trust, honesty

- Paying subjects for interview/participation, “tipping,” providing presents, incentives to gain information- problems can arise- voluntary participation best technique - without coercion: (e.g. inmates believe that participation may benefit them personally, in this case their decision to participate is purely voluntary)

Cont…

- One of the ethical norms of research relates to disclosure of the research area or subject to respondents. In some cases it may be difficult to get data from respondents/subjects on certain issues if the researcher discloses the topic or subject of his research.
- This applies to both primary data and secondary data. The ethical question then is whether the researcher is bound to disclose the research subject or topic to respondents.

Cont…

- Another ethical issue that has been discussed by researchers with diverging views relates to revealing the researcher’s identity to the respondents. Some have contended that not revealing the identity of a researcher causes ethical problems. On the others hand, there are those who have argued that concealing the researcher’s identify may sometimes have positive effects.

Cont…

- Avoid psychological harm – asking subjects to reveal unpopular habits, demeaning personal characteristics etc. –asking subjects to address issues that they would not normally/ordinarily consider psychologically harmful.
- Protect anonymity (when a researcher cannot connect a given response with a particular subject/respondent),
- Informed consent – right of subject to be informed of the nature and consequences of research.

Cont…

- Plagiarism; this is not simply copying but using of another person’s research finding, idea, phrase or sentence without acknowledging the source, or acknowledging it inadequately in the research report.
- It is common for students (and researchers generally) to transfer data and information from other peoples work and present it as their own, with the hope and sometimes strong belief that the supervisor will never get to know of the source. When one makes reference to ideas or refers to a quotation from a web site, he must cite that source.

Cont…

- plagiarism is both an illegal act and punishable, considered to be on the same level as stealing from the author that which he or she originally created.
- Plagiarism takes many forms. On one hand of the spectrum are people who intentionally take a passage word-for-word, put it in their own work, and do not properly credit the original author.

Cont…

- On the other hand consists of unintentional (or simply lazy) paraphrased and fragmented texts the author has pieced together from several works without properly citing the original sources.
- However, No part of the spectrum of potential plagiaristic acts are tolerated by the legal community, and research documents/reports will be rejected by publishers if they contain any form of plagiarism – including unintentional plagiarism

Cont…

Ways to avoid plagiarism;

- Firstly, the writer is advised to put in quotation information that is directly extracted from the text especially when taking notes.
- Secondly, in order to avoid chances of plagiarizing, the writer ought to paraphrase. However, care must be taken to ensure that the paraphrasing does not amount to mere rearranging a few words, or just replacing certain selected words for other similar words.

Cont…

- The writer is advised to read over what he wants to paraphrase very carefully and get make every effort to get his focus away from the text and then proceed to write his ideas in his own words without peeping. When paraphrasing, the writer of course uses his own words, but he must still acknowledge the source of information.

Cont….

- The delicate balance between ensuring that the rights of respondents are not violated against the rights of society members to be informed also has a bearing on ethics.

Cont…

- Ensure confidentiality/privacy: (where researcher is able to identify a given subject’s response but had promised not reveal his/her name) and identity of subjects/respondents
- -Fiduciary Relationship between a researcher and the respondent;
- Read ***Nocton vs. Lord Ashbarton*** (1914) A.C. 562

Cont…

- Revealing identity of researcher – sometimes causes ethical problems – to reveal or not to reveal – concealing may have positive effects e.g. May lead to completeness and accuracy of data collected – but not telling the truth - deceiving - is generally considered unethical – how do you overcome this?

cont;…

- Dress code
- Acknowledgement
- Deception – morally unacceptable
- Detaching from subjects after completion of research - depends on period-length of stay but could have – negative effects on subjects and researcher

Cont…

- **WHY STUDY RESEARCH ETHICS?**
- A Guide to research Ethics of 2003 of UNIVERSITY OF MINNESOTA CENTER FOR BIOETHICS at pages 6-7 provides for a well convincing reason as to why it is important to study research ethics. According to this Guide, Knowing what constitutes ethical research is important for all people who conduct research projects or use and apply the results from research findings.

Cont…

- All researchers should be familiar with the basic ethical principles and have up-to-date knowledge about policies and procedures designed to ensure the safety of research subjects and to prevent sloppy or irresponsible research, because ignorance of policies designed to protect research subjects is not considered a viable excuse for ethically questionable project

Cont…

- Therefore, the duty lies with the researcher to seek out and fully understand the policies and theories designed to guarantee upstanding research practices.
- Research is a public trust that must be ethically conducted, trustworthy, and socially responsible if the results are to be valuable.
- Thus this makes it of great significance.

Cont…

- All parts of a research project – from the project design to submission of the results for peer review – have to be upstanding in order to be considered ethical. When even one part of a research project is questionable or conducted unethically, the integrity of the entire project is called into question.

NB;

- **Research process** consists of series of actions or steps necessary to effectively carry out research and the desired sequencing of these steps. At higher level of abstraction it involves to:

CONT…

- Define the Research Problem
- Review the Literature (i.e. Review the concepts & theories and Review previous research finding)
- Formulate Hypothesis (or Research Questions)
- Design Research (including sample design)
- Collect data (Execution)
- Analyze data (Test hypothesis, if any)
- Interpret and report

REPORT WRITING

In writing the report, care must be taken to ensure that there is a logical and coherent presentation of the report and that it flows well. The chapters, headings and sub-heading or sub-titles are to be arranged in some organized manner.

There must be clarity of expression, the grammar (language) and in the presentation of thoughts advanced in the course of analysis.

CONT…

- There must be a systematic organization and presentation of ideas and thoughts on legal issues addressed and analyzed.
- Above all, the student must satisfy himself that the arguments advanced are original. The citation and references ought to be proper and consistent. There must also be an organized and systematic compilation of the bibliography, tables and appendices (where used) must make reference to the source.
- where they were obtained. One must also satisfy themselves that the citation of texts, journals and other authorities is proper and consistent.

CONT…

- There must also be a symbiotic relationship between the ideas advanced and those advanced in the analysis of the literature review part of the report. The contribution legal knowledge of the study must also come out very clearly and areas for future research, if any, should be stated with clarity.

CONT…

- It is also important to point out that the report/dissertation must comply with the accepted format, where one is provided and must conform to specifications set out in the relevant and applicable regulations.
- When it comes to conclusions and recommendations, students ought to ensure that the conclusions are drawn from the analysis of data obtained from the field. The issue of practicability of the recommendations advanced is also fundamental.

CONT…

- Another important issue that should not be lost sight of in the self analysis process is the need for coherent presentation of the ideas being advanced for legal reform in the presentation of recommendations.
- Finally one should ask whether the objective of the research has will be attained, that is to say, whether the research findings are capable of reaching out to the targeted groups, such as law reformists, legislators and policy makers.

Cont…

- Footnotes and end-notes;
- A footnote is a raised number that is placed at the end of a sentence in which the
- reference is made- it refers the reader to the bottom of the page where there is a list of references. Endnotes, on the other hand, play the same role as footnotes. However, these appear immediately at the end of the paper or chapter. Footnotes and endnotes are
- basically devices used for giving additional information without disrupting the flow of a
- written text.
-

Cont…

- - Paragraphing, brevity, short sentences, use of simple language – avoid complicated phrases where a simple one would suffice.
- - Presentation of drafts – in chapters or complete volumes
- - Keep record of all the draft notes taken – even rough ones- you never know when you would need them.

Cont…

- Leave plenty of room as you write – to incorporate changes – or leave sufficient space in margins to insert data/points that you may have forgotten or those that you come across in the course of writing.

7. Organization of the Research Report

- Cover page, acknowledgements, preface, copyright page, table of contents, abbreviations/acronyms
- – Chapterization naming of chapters – these may change in the course of writing, constructing headings, sub-headings, numbering, length (in terms of words) of headings/subheadings, Limitations encountered, conclusion and recommendations

Cont…

- Footnotes
- Definition;
- (a) A raised number that is placed at the end of a sentence in which the reference is made- it refers the reader to the bottom of the page where there is a footnote list.

Cont…

- (b) Devices for giving additional information without disrupting the flow of a written text
- Main Uses – Provide source of a citation; make cross-reference to another part of the report; define terms or provide extra or more recent information

Cont…

- Latin phrases commonly used in footnoting
- When writing footnotes one may need to refer to something more than once.
- In order to avoid repeating the information in the bibliography, certain Latin words are used;
- (a) Ibid. “Ibidem – at the same place” – Used where uninterrupted reference is made to the same publication
-

Cont…

- (b) Op.cit. “Öpere citate” “- in the work/s already cited. Used where reference to a particular publication is made more than once but where the references are not consecutive.
- (c) Loc.cit – “loco citato” – “the place cited” – not common, used to refer to the same author, title and page of an earlier footnote.

Cont…

- d) Supra - Means above -may be used where a secondary authority has been cited previously and where the use of ibid is inappropriate
- (e) Infra - Means below – may be used for cross-references

8. Compiling a Comprehensive Bibliography

- 8.1 Definition:
- A bibliography is a list of all sources - books, articles, cases etc. (Not class notes!) that have been consulted or made reference to (indirect or direct) in a piece of academic writing.
- It is considered a crime in academic circles to make use of a source without acknowledging it, or to cite a source that was not actually consulted.

Cont…

- 8.2 Revision and verification of preliminary bibliography
- Books – (Texts) – List of names of authors to be arranged alphabetically in the bibliography – use word processing command, - highlight text, go to table icon, press “Sort” – this command arranges the list in alphabetical order, automatically.
- - Underline title of text, book

Cont…

- Elements of a bibliography
- 1. List items in alphabetical order
- 2. Write both names where there are two authors – if more than two, give the name of the first and use “et al” or “and others”
- 3. Underline titles of books and journals
- 4. Distinguish between an author (the writer of the work) and an editor (who has complied works of a number of different

Cont…

- 5. authors). Use “Ed” or “Eds” in brackets after the name of the editor or editors, respectively.
- 6. Different styles exist – just be consistent

Cont…

- Journals/Review Articles
- Consistency in citation also underscored- Arrange name of authors alphabetically, title of works usually italicized or bolded, source (name of journal) ought to be identified distinctly e.g. by underlining. E.g. G.M.

Cont…

- List of Legislation/Statues
- – Principal, subsidiary
- - National/International legal instruments (Conventions, Treaties)

- Case law
- - Proper citation of authoritative cases – Underlining cases, citing unreported cases, citing in footnotes/endnotes

Cont….

- Unpublished Works
- (a) Thesis/Dissertations - citation
- (b) Magazines/newspapers - citation
- (c) Pamphlets – citation

9. AVOIDING PITFALLS

- - Computer Viruses
- - Back-up files
- - Print and file hard copies
- - Proof-reading
- - Appointments – keeping time
- - Contact with supervisors

Cont…

- After Submission of Report
- - Evaluation – self -whether objective attained – Are your research findings capable of reaching out to the target groups - law reformists, legislators, policy-makers?
- - Personal development
- - Academic achievement

Cont…

- - Complying with legal requirements on research findings – Commission of Science and Technology – see for example the Serengeti Wildlife Research Institute Act No. 4 of 1980 (Section 10- information obtained from any on wildlife research in Tanzania shall be furnished to the Institute)
- - Publication
- - Report back to subjects/respondents in the field- appreciation, copy of report

Cont…

- - Monitoring - follow up of implementation of recommendations and feed- back to subjects/respondents
- - Maintain contacts made in the course of research – other researchers may most likely go the same subjects/respondents – create an enabling environment for these to perform.