

WRITING GUIDE
GRADUATE SCHOOL OF LAW
NAGOYA UNIVERSITY
SPRING 2015
VER. 02

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Chapter I: Introduction to Thesis Writing

1.1 Welcome

The Academic Writing (AW) team at the Nagoya University Graduate School of Law (GSL) welcomes you to the field of academic writing. This guide will help you to write a thesis that demonstrates your ability to think about and communicate ideas to both the university and others. Along with all other universities around the world, Nagoya University expects a thesis to be well-organized, clear and convincing. By learning such an approach, the student's writing task will produce benefits that flow into your future career because presenting complex ideas and structuring an argument coherently is essential to professional life (in any language).

Regardless of the starting point, all students can improve their writing skills. All of the faculty in GSL understand that this is a lifelong process you might be just beginning. The department provides three AW courses, advice, tools and resources that will help you. You might take a doctrinal, non-doctrinal (quantitative or qualitative) or comparative approach to your topic. In any event the AW courses help you to organize and communicate your insights and the legal recommendations that flow from them.

This guide is designed to help students and supervisors, and it will be used in each AW course. In addition, your regular interaction with the AW teaching faculty across the whole degree program is essential too; that is, in classes, workshops, tutorials, and individual appointments. The AW principles taught in the GSL through all these learning opportunities will strengthen your ability to express formal discourse as well as help you to find a "voice" in legal writing. In turn, this should enable you to contribute better insights to the global discussion about the future direction of law. All of the AW teaching instructors at the NU GSL have published work that complies with globally-accepted conventions for academic writing. The AW team comprehends the challenges you face in academic writing in the legal field. The team believes that supervisors too will find that this guide useful, as a benchmark for academic and legal writing that makes it easier to evaluate student achievement.

Academic writing is different to other forms of writing, such as business, journalistic or even legal writing for documents. You might be a strong writer in another context, or comfortable speaking English, but you will still need to learn new habits to express legal ideas well in an academic paper. One thing academic writing has in common with all other forms of writing is that revision — not once but many times — is normal and the key to success. All of the faculty hope that you will continue contributing to the global discussion about law, in English, and other languages. The AW teaches how to comply with one primary writing “style” accepted in the academic world in order to prepare you to adapt later to the requirements of scholarly and professional journals.

The most successful students pursue writing skills with passion: the same passion they bring to their research. This applies to both native and non-native speakers of English. The department strongly recommends you take all the AW courses whether compulsory or for credit. While many students attend for credit, others join the class for no-credit. The AW team welcomes both type of student. The key is to participate in all the other opportunities to develop your writing skills that offered throughout your studies. The materials from the AW Workshops are all available on the Online Syllabus for you to download, but it is a good idea to come to all the workshops that are provided occasionally for a “hands-on” practice in the skills you will need to complete your paper. Table 1 below summarizes the new AW program as a whole will offer the student.

PROGRAM	Spring 2015	Fall 2015	Spring 2016	Fall 2016
Classes	AWII	AW I & AWIII	AW II	AW I & AWIII
“WRITINGLAB”	AWII	AWIII	AWII	AWIII
Workshops	As needed	As needed	As needed	As needed
Mentor meetings	For M2 Submitting June	For M2 Submitting Dec.	For M2 Submitting June	For M2 Submitting Dec.

Figure 1. Nu GSL Academic Writing program.

Source: AW teaching faculty.

The table above illustrates the basic AW program for 2015 and 2016. Students do not have to begin with AW I as the courses are set to meet individual needs as best as possible. As most enter the program in the Fall semester, a majority of M1 students will start the program at this point and then proceed with AW II in the Spring and AW III the following semester. However, the classes are open to M2 and PHD students who may need further support in their writing. The on-line segment “MyWritingLab” (MWL) is offered as a required part of the AW II & AW III classes. Students will attend special workshops closer to the commencement of classes in order to learn how to “access” and use the special lab that will run in conjunction with these two classes. Other workshops may arise and will be announced by the AW team through the GSL website as well as in class. Finally, M2 students who are submitting in the coming dates will be assigned a “writing mentor” to assist in handling any immediate questions regarding drafts. Other students may request a meeting with an AW mentor, but time and availability may limit such meetings.

1.2 Role of this Guide

The GSL AW team developed this guide to assist everyone who writes or reads an NU GSL thesis, and this includes students, supervising faculty, the AW teaching faculty and others outside Nagoya University. The uniform standards here will benefit all of these stakeholders. Therefore, this writing guide is a key part of the NU GSL Academic Writing program, and students should download as an instructional guide and begin using it immediately.

Ideally, everyone should have a clear grasp of your English writing ability when you enter the graduate school. However, past experience shows that many students enter the program with a variety of needs. The program provides and the “MyWritingLab” for all students to brush up on their on the different areas of skills that need work. This works should not be taken lightly as it will aid you and your supervisor in understanding what is needed to improve the thesis. This can also help students and supervisors in other ways. For example, this program helps students to select an appropriate research topic, and helps your supervisor to tailor their input to their students’ actual needs.

Samples and examples in this guide are meant only as illustrations as one standard way to comply with the practices the guide recommends. Your thesis might look a little different from the patterns you see in this guide, if your supervisor feels that a different approach is appropriate. Students applying the common practices, checklists, and standards in this guide will save everyone time. The final product should be as close to this standard so that the supervisor, editor, and reader understand the coherency of your work. The AW team also keeps a record of your participation at each stage of the AW Program to ensure you are receiving the help you need.

Chapter II: Basic Pointers

If the initial concept for a research project is a starting point, and the completed thesis is a goal, the research and drafting process is the path that connects the two. A good pathway has well-defined signposts to guide the traveler, but it may be flanked by rough terrain and difficult obstacles. This chapter provides guidance on several fundamental matters that you should study and reflect upon before beginning your journey so you know how to avoid the obstacles and rough terrain.

The chapter is divided into three sections and begins with fundamental concepts that you should grasp before you plan your research. The first section will help you gain a clear view of what constitutes a primary source for your project, so organizing your research will be easier. The second section gives a basic description of what is (and what is not) plagiarism so you can think forward to writing up your research with less stress and worry. The third section is on how to schedule your work on your journey so you meet the formal milestones set by GSL rules that you must pass along the way. This third section also includes a short checklist of the tasks you must finish in order to complete your program at the Graduate School of Law.

2.1 Sources

A research project aims to persuade the reader to accept the writer's view on a specific issue. The starting point is a shared body of accepted evidence. The evidence is open to differing interpretations. For example, some researchers may interpret a particular law on the state purchase of private land to be too favorable to developers, while others interpret it to be too favorable to residents. The writer has two tools to move a reader from one view to the other: logic and authorities. Authorities are statements made by others on a topic. They might support your favored view or take a different approach. Authorities related to your chosen topic are the “raw material” you start with to write a thesis. Linked together with your own logic, they make a finished thesis. Furthermore, an interview or survey produced by a researcher is a special type of evidence. This guide explains below how this evidence must be handled carefully to have the force of authority.

2.1.1 Primary vs. secondary sources

Clear, careful presentation of primary sources is essential in academic argument whether the field is law, politics, or any other discipline. Primary sources are the foundation on which the writer's argument rests. Arguments that do not clearly present and cite primary sources are generally considered weak and are unlikely to persuade the reader to adopt the writer's view. The writer should mention the use of primary sources in the introduction of thesis. Figure 1 below may help the student to think about the distinction between sources.

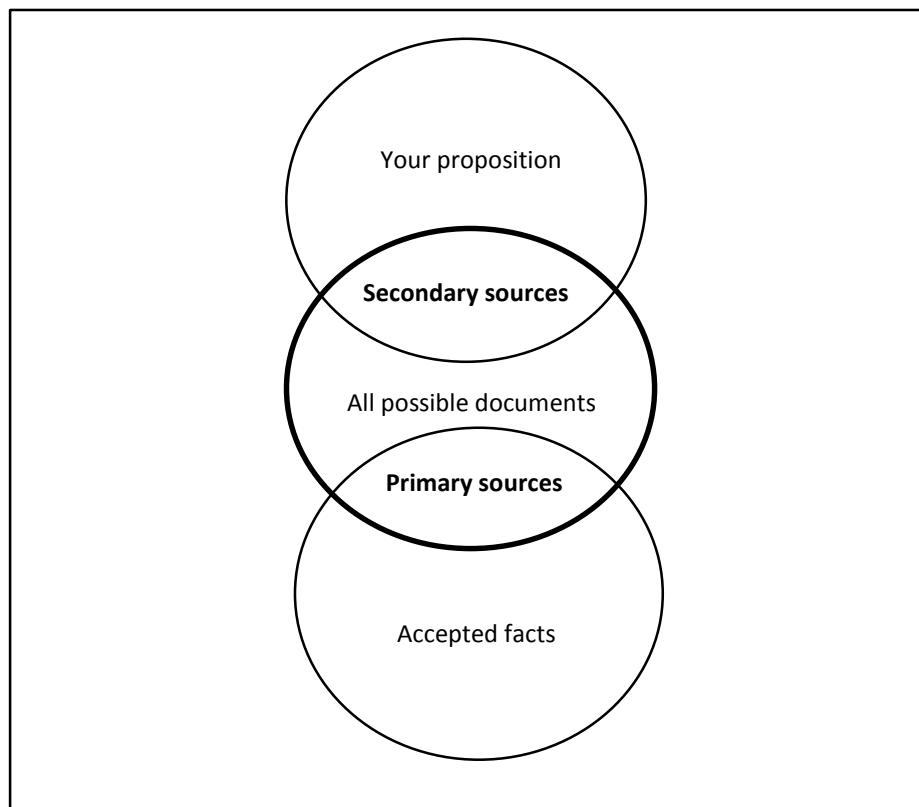


Figure 2. Primary and secondary sources.

Source: AW teaching faculty

The most important secondary sources could be described briefly in a literature review in the introduction or in the background chapter, before the argument begins. This includes both secondary sources that support your view and those that do not. The writer should state clearly how each secondary resource is relevant to the writer's own research project.

Instrumental documents such as statutes, rules and court judgments are often used as a primary source. Other documents can be either primary or secondary, depending on how they are used in the logic of a thesis. The figure above might help you to consider a thesis about a point in labor law. If the scholar uses an 1899 article to defend a specific interpretation of a modern labor law, then the article is a secondary resource. But the same article will be a primary resource if the scholar uses it as evidence that support for the law existed in 1899.

2.1.2 Interviews and surveys

When interviews or surveys are planned as part of your research project consult with your academic supervisor on three points: 1) the form and content of the questions to be asked; 2) how the interviews are to be used in the paper; and 3) consent from the subjects for use of the results. The principles underlying survey methods are beyond the scope of this writing guide. However, one observation should guide your work in preparing this form of evidence. Because you are offering the results as “accepted facts” in the written work, you must pay very careful attention to honesty, transparency, and objectivity in order to gain the trust of the reader.

The questions or issues to be explored in an interview or survey should be settled in advance, in consultation with your supervisor, and this information should be included in the appendices of your finished thesis. Loose interviews in which you pose only general questions are a weak form of evidence if the position of the interviewee is adopted as your own without critical reflection. For surveys, the questions, the method of the survey, and the sample population (i.e. the people to whom the survey will be administered) should be settled in consultation with your supervisor. These three issues (questions, method, and sample) should be defended in the text of the thesis with particular attention to possible objections of bias.

These caveats should not discourage the student from using interviews and surveys as part of the evidence for a thesis. However, the student should be aware that these research methods do require extra time and planning. Finally, you should obtain the consent of subjects to the use of evidence gathered from interviews or surveys in your research. Again, consultation with your

supervisor early in the planning process will avoid potential difficulties in the use of this important evidence in your finished thesis.

2.2 Copying from the work of others

This section concerns the copying of text written by other authors. The acceptable boundaries of copying vary between countries and even between educational institutions. While we are aware that copying is accepted in some environments, the department has firm and clear policies about copying in this program, and these are described below. As a student of the Nagoya University Graduate School of Law, you are expected to know them and to respect them.

This chapter began by comparing a thesis to a journey. The effort required for the journey is important because that is where learning and personal growth takes place. The finished thesis is evidence that you have invested the necessary effort to complete the journey. The student demonstrates integrity and the value of a degree from Nagoya University by refusing to take short cuts. This discipline of building a reputation for integrity applies to all of us: to students, to academics, to universities, and to national education systems. In sum, doing your own work shows that you have the will to grow and the right to be taken seriously.

2.2.1 Plagiarism defined

The definition of plagiarism offered by the Council of Writing Program Administrators provides a starting point for this term: “...plagiarism occurs when a writer deliberately uses someone else's language, ideas, or other original (not common-knowledge) material without acknowledging its source.”¹ Note that plagiarism is not simply “copying” but is copying without citation. This applies to text tables, figures, illustrations, and other creations. Here are some examples of things that would clearly constitute plagiarism in a finished thesis:

¹ *Defining and Avoiding Plagiarism: The WPA Statement on Best Practices*, accessed June 26, 2013, (Council of Writing Program Administrators, 2003), <http://wpacouncil.org/node/9>.

- 1) Copying and pasting phrase or sentence-length text without quotes or without correct citation;
- 2) Copying-and-pasting paragraphs, followed by changing only a few of the words, with or without correct citation;
- 3) Use of tables or figures without correct citation;
- 4) Use of the logic of another author without correct citation.
- 5) Use of the conclusions of another author without correct citation.

2.2.2 Copyright material

The idea of copyright is tied to the “free use doctrine.” This rather flexible doctrine gives scholars some latitude in working with sources. The basic principle is that anything you use or draw from another work must be cited. This holds true for tables, figures, photographs as well as text. In addition, this point is true whether the original work is marked with the © sign.

Whether your specific use of another work is a violation of copyright (when permission was not sought or granted) depends upon two main factors: 1) how much was used; and 2) the intent of the borrower. The *Chicago Manual of Style* provides some examples for when permission for use may be required. In general, students should not cut and paste tables and figures from other sources but learn to make their own from existing data with proper sourcing (see section on Tables and Figures). A good rule of thumb is that if you reproduce a table, figure or photograph *exactly* then permission should be sought. If quotes of text are not excessive then permission is unnecessary. If in doubt, consult with a member of AW team or your supervisor.

2.3 Scheduling

Because a few students enter this program in April rather than October, the specific deadlines for final submission may vary. Refer to your NU GSL *Handbook* for details on the specific deadlines for your own cohort. Managing these deadlines is your responsibility. The two preparatory submissions you must submit, the *Research Proposal* and *Mid-Term Report*, are an important

foundation for moving forward with your work. These reports are also a valuable opportunity to exercise and improve your writing skills by following these guidelines.

The student should allocate sufficient time to write carefully. For many students, writing with correct citation is a slow process, especially in a second or third language which explains one of the reasons why there is a strict length limit of 20,000 words for LL.M. theses. The faculty want shorter theses of a higher quality. All of the plans and your writing can be improved through criticism and revision, but you must allow sufficient time for revision following feedback from your supervisor and others. For an LL.M. thesis, for example, the AW team recommends allowing a full month for revision prior to submission for English check.

2.3.1 Research Proposal and Mid-Term Report

The *Research Proposal* and *Mid-Term Report* are preparatory submissions that give an opportunity for student and supervisor to develop a shared understanding of the content and direction of the research project. This section offers some advice on preparing these documents. The appendices to this writing guide provide a sample *Research Proposal* (Appendix A) and a sample *Mid-Term Report* (Appendix B). The samples should not be treated as templates, but they do show the form and expected coverage of typical submissions. You should review them before beginning work on each submission in order to acquire a feeling for what supervisors are expecting. Also, the student should consult with the supervisor in good time before the deadline for each submission. Both the *Research Proposal* and the *Mid-Term Report* should address three central elements: the problem; the method of investigation; and the proposed outcome. The precise content of each element will vary depending on the research topic and objectives, but each is indispensable to a description of the project and your progress.

Turning to the first element, your problem statement, this is a concise statement of why your thesis is necessary. This statement should present a choice or a controversial proposition. Examples of acceptable types of statements might be: “There are conflicting proposals to use either increased transparency or criminal sanctions as a means of reducing court delay in Country X;” or “The ‘case

or controversy' requirement for judicial review is incompatible with the judicial traditions of Country Y.” The statement must do more than describe a general problem or need. A statement like “Country Z does not have a law on city planning” is inadequate.

Moving to the second element, your method of investigation, in most cases you will need to prove several things to the reader in order to respond to the problem you have identified. Your work should indicate how you intend to go about proving the points in the paper. The writer should be as specific as possible in describing your method of investigation. General statements like “The study will gather materials and analyze them” are inadequate. A stronger or more effective way is to cite specific primary and secondary authorities that are particularly important to your project.

Describing the third element, your proposed outcome, means explaining the particular conclusion you expect to reach in your research. These expected results are included in your problem statement for clarity, but be aware that this is not binding. Systematic investigation often leads to unexpected results, and you will most likely need to adjust your conclusions as your research progresses.

While the Research Proposal presents these three elements as best you can at the start of the project, the *Mid-Term Report* is an opportunity to explain your progress on the specific steps you have proposed as your “method of investigation.” This might lead to modification of the problem, or to your proposed outcome. The student might make further adjustments during the write-up of the finished thesis — as always in consultation with your supervisor.

These two submissions are an opportunity to work closely with your supervisor to set the content and direction of your thesis. You should also work closely with your supervisor when preparing oral presentations on your work and the final draft of your thesis. During your M2 year you will have opportunities for individual appointments with a writing mentor who can advise you on questions about academic writing in English. And you are allowed a preliminary check of your thesis by a native English speaker a month before your final submission date, but be sure to obtain approval from academic advisor and that you make a final check of your paper (see page 33). In principle, there is only one opportunity for this full preliminary review.

2.3.2 Checklist: Basic Scheduling Tasks

- 1) Meet with your supervisor early, and arrange for regular communication;
- 2) Review this writing guide;
- 3) Consider special requirements (interviews, surveys, skills) early, and plan accordingly.
- 4) Familiarize yourself with the proper use of all the research and writing tools covered in the writing workshops (like *Zotero*, word processing software and MyWritingLab);
- 5) Begin building and organizing your references section early;
- 6) Draft and revise your *Research Proposal* well before the due date;
- 7) Draft and revise your *Mid-Term Report* well before the due date;
- 8) Draft your thesis slowly, carefully applying the skills taught in the AW courses; and
- 9) Allow a month to revise your thesis before submission for the preliminary check.

Chapter III: Style and Presentation

The term “style” has several meanings in academic writing. Writing style refers to the “voice” of a piece of writing. For example, in spoken English or in personal letters a writer may use the first-person pronoun “I” or “me” and contractions such as “can’t” or “won’t,” but such usage is avoided in academic writing. A page style (or style-sheet) refers to the formatting requirements for printing or typesetting, including margins, font, typeface, and numerous other details of presentation. A citation style provides detailed rules for formatting individual citations and a list of references.

This writing guide illustrates the page style appropriate for a thesis and other written work submitted to the faculty. The basic style and format is based on the guidelines provided in the *Chicago Manual of Style* (CMS), a comprehensive desk reference for editors published by the Chicago University Press. You should explore this resource further in the library or online as it provides a wealth of guidance on the publishing process and all aspects of manuscript preparation and the production of final, camera-ready copy for publication. However, the student should note that this writing guide overrides the *Chicago Manual*. In some areas the CMS is too technical or vague for our purposes at the NU GSL, so this guide adopts a simpler, more specific approach in many areas. The three Academic Writing courses taught in this program will provide more detail.

3.1 Citations

The purpose of a citation is to identify the cited resource by its essential details. A citation style sets down rules for arranging the citation of a resource in a compact, readable form. This is one example showing a citation as a footnote as well as how it should appear in your final reference section:

As a footnote:

Adam Smith, *The Wealth of Nations* (New York: Simon & Brown, 2012), 25-27.

As a final reference:

Smith, Adam. *The Wealth of Nations*. New York: Simon & Brown, 2012.

The citation above follows the rules of the “Chicago Full Note” form of referencing described in the *Chicago Manual*. The example identifies the book *The Wealth of Nations* by Adam Smith, as reprinted by the publisher “Simon & Brown” in 2012. The reader knows that it is a book because the title is in italics.

In contrast, the title of a journal article is set in “quotation marks” in the Chicago Full Note style. Here is an example:

As a footnote:

William M. Landes and Richard A. Posner, “Citations, Age, Fame, and the Web,” *The Journal of Legal Studies* 29 (2000): 319-44.

As a final reference entry:

Landes, William M., and Richard A. Posner. “Citations, Age, Fame, and the Web.” *The Journal of Legal Studies* 29 (2000): 319-44.

This Chicago Full Note form (also known as “Notes and Bibliography”) is the form the NU GSL prefers for most references in student theses, with some minor modifications that are described below. Chicago Full Note is a descriptive citation style that can be used to cite a wide range of material. However, you should notice some general patterns; for example, with footnotes commas are used in separating the information while in final entry periods are used in providing the same information. Chicago Full Note in turn refers to the rules of *The Bluebook: A Uniform System of Citation* for guidance on how to cite some American and international legal materials.

The Chicago Full Note does not cover all types of legal materials. Each country has different citation conventions for its legal system, and no guide provides complete coverage. For each country, you should follow the citation rules of the leading legal citation style for that jurisdiction. The AW teaching faculty and your supervisor can provide guidance on special cases.

A thesis submitted in our programs frequently cites materials in multiple languages. For clarity, the AW team recommends a small change to the rules of the ordinary Chicago Full Note style. Names in non-Roman scripts should be given in parentheses in their original form, and non-English titles and journal names should be given in their original language, followed by an English translation in square brackets. For example:

As a footnote:

Fumio Sensui (泉水文雄) et al., 経済法 [Economic Law], (Yuhikaku, 2010), 45-47.

As a final reference entry:

Sensui, Fumio (泉水文雄) et al. 経済法 [Economic Law]. Yuhikaku, 2010.

The *Multilingual Zotero* reference manager can produce correctly formatted Chicago Full Note citations and as a tool may assist you in preparing your thesis.

3.2 Checklist: Common Issues

- 1) Refer to this writing guide in the first instance for guidance on general structure, sentence and paragraph development, and formatting details.
- 2) For more general guidance on organization and style, refer to the *Chicago Manual of Style* 16th ed. (CMS).
- 3) A previously submitted thesis should not be used as a template. Standards have changed and will continue to tighten over your studies. This writing guide, and advice from the AW teaching faculty and your supervising professor are your best source of guidance.
- 4) Published articles should not be used as a template. The format and citation conventions of a journal will certainly differ significantly from the requirements of our program - and not all published articles are well-structured or well-written.
- 5) Use a 10.5-point font size throughout the main text, and 10-point size for footnotes and captions, as in this writing guide.
- 6) Footnotes supplement the main text; they should not ordinarily dominate a page. As a rough guideline the main text should make up at least 75% of a page unless there is a strong reason for using an exceptionally long footnote.
- 7) Use bold typeface in headings and labels only. Do not use boldface in regular text.
- 8) Use italics sparingly, for the following specific individual words and phrases: foreign terms (e.g. *res ipsa loquitur*); the names of cases (e.g. *Marbury v. Madison*); the names of all legislation (including international legal instruments, constitutions, laws, regulations and rules); and the titles of

- published books or periodicals (e.g. *The Wealth of Nations*). Italics may also be used on rare occasions for emphasis. Block quotes and other large runs of text should not be set in italics.
- 9) Do not use uppercase for names or titles (i.e. write John Smith, not John SMITH).
- 10) Use double quotation marks for quotations, with single quotes for inner quotations (e.g. Mark Twain wrote: “The Public is merely a multiplied ‘me’.”).
- 11) Limit the use of parenthesis and dashes. They interrupt the reader. (If you wish to place text inside parentheses inside further parentheses, which are called “nested” parentheses, then use [square brackets]).
- 12) Always enclose the words of other authors in quotation marks and provide a citation to the original source. Quotations should be used for one of two purposes: (1) to show the exact words used in the original source before analyzing the wording; or (2) to show that an influential commentator has made the quoted statement.
- 13) Do not use first or second person outside the Acknowledgements section (i.e. write “This study explores the views of officials through interviews”, not “I explored the views of officials through interviews”).
- 14) Use “he or she” where the subject may be male or female, or repeat the generic description of the subject in order to achieve gender-neutral writing.
- 15) Do not use words with slashes (e.g. write “he or she”, not “s/he”, and use “or”, not “and/or”).
- 16) Avoid using rhetorical questions for emphasis (i.e. write “The policy of the Ministry is unclear”, not “What is the policy of the Ministry?”).
- 17) In general, spell out numbers less than 10 except for dates, decimals, fractions, percentages, prices, scores, statistics and times (e.g. write “There are three branches of government”, not “There are 3 branches of government”).
- 18) Do not mix date formats (i.e. write “May 23, 1997” and “December 1, 2001”, not “May 23, 1997” and “1 December 2001”).
- 19) Use the Anglo-American format for numbers, not the European format (i.e. write “1,234.5” not “1.234,5”).

20) Do not use the word “shall” in ordinary text. It is both ambiguous and an inappropriate word for use in persuasive argument.

21) Write “cannot” as single word throughout the text (i.e. write “Water cannot be dry”, not “Water can not be dry”).

22) Do not use “etc.” or the phrase “and so on” in ordinary text.

23) Spell-out the abbreviations “e.g.” (“for example”) and “i.e.” (“that is”) when used in the main text outside parentheses.

24) Avoid unnecessary repetition of the same word in a sentence or paragraph. This is a sign that the sentence or paragraph can be simplified.

25) Set your word processing software to use American spelling conventions consistently throughout the text (except for quotations, which should match the original text).

26) Use acronyms for institutions only if they are widely used. For other institutions with long names, use an abbreviation. Specify both acronyms and abbreviations in parentheses when the institution is first mentioned. That is, write:

... the Organization for Economic Cooperation and Development (OECD) and the Working Party on Territorial Policy in Urban Areas of the Territorial Development Policy Committee within the OECD (Urban Area Working Party)...

not;

...the Organization for Economic Cooperation and Development (the Organization), and the Working Party on Territorial Policy in Urban Areas of the Territorial Development Policy Committee within the Organization ['WPTPUATDPC']...

27) Provide a List of Abbreviations at beginning of your thesis if your thesis contains more than five acronyms and abbreviations.

28) Make sure that all appendices are correctly listed in your Table of Contents.

29) Avoid using phrases that add no meaning, such as “It is important that...”, and “One should note that...”

Chapter IV: Structure and Formatting

This chapter is divided into three sections. The first explains how to organize the large-scale structure of your thesis (what elements and chapters you need and how to order them). The second explains the small-scale structure of your thesis (how to use logic to build sentences, paragraphs and sections that showcase your legal argument). The third section explains how to format your thesis according to NU GSL requirements.

This guide explains a typical thesis structure, but sometimes there are good reasons for a different structure. Students should consult with both the AW teaching faculty and their supervisors as they write. This will ensure that you use the structure best suited to your topic.

4.1 Large-scale Structure

The standard organization of a thesis consists of five chapters and follows the fundamental essay design: an introduction, several body chapters, and a conclusion. However, a thesis is not just a long essay because it includes additional elements. In the NU GSL. A thesis is an in-depth evidence-based study of a specific legal problem, which makes concrete recommendations for change. The large-scale structure recommended here is the standard way academic writers integrate the evidence into their central argument and recommendations.

4.1.1 Length, order and balance

The NU GSL recommends you do not write more than roughly 20,000 words of double-spaced text. This includes all pages and all words. Students who try to write longer theses often find they do not reference their work properly, or it contains a large amount of repetitive or irrelevant information. The faculty is looking for quality, not quantity. They are not looking for you to write a textbook in your field, therefore, write less, avoid repetition, and reference more.

The researcher should achieve balance when allocating pages to each element of the thesis structure. Figure 3 below is a quick guide to the elements of a thesis and what the page allocation in a typical thesis might look like. Each element is explained in more detail in this chapter. Only the

acknowledgment and appendices are completely optional while all the other elements are compulsory. A poorly structured paper hints at a problem of coherency. Finally, most academic journals impose length limits so learning to achieve the right balance in this thesis will be good practice for publication later in your career.

Title Page	Follow NU GSL requirements	1 page (not numbered)
Acknowledgment	Brief, optional	1 page (Roman numerals start)
Abstract	300-word limit	1 page (ii)
Table of Contents	Automate in WORD	2 pages (iii, iv)
List of Abbreviations	If thesis contains more than five	1 page (v)
Chapter I Introduction	Roughly 5% of LL.M. thesis	2~4 pages (Arabic numerals start)
Chapter II	Background	roughly 10 pages
Chapter III	Comparison	roughly 11 pages
Chapter IV	Analysis	roughly 11 pages
Chapter V Conclusion	Roughly 10% of thesis	4 pages
Appendices	Optional	varies
References	Use Multilingual Zotero	varies
	Total	45~54 pages

Figure 3. Elements of an NU GSL LL.M. Thesis

Source: AW teaching faculty

4.1.2 Title Page

The title page is a required element of your work. This page is unnumbered but included in the total page count. To meet the needs of the university library, this page must include the following: 1) main title; 2) the student's name; 3) the name of the program that the student has entered (Program in Law and Political Science or the Program for Professionals); 4) the student's identification number; 5) the name of the student's academic supervisors; and 6) the submission date.

Do not add borders, underlining, italics, figures or photos. The font type and size should be the same as the base text, but put all words that are part of the title in bold capital letters (see front page of this guide as an example).

4.1.3 Abstract

The abstract is a crucial element, which acts like a signboard, describing your way of solving the problem in your thesis in a succinct, appealing way. A clear and concise abstract is imperative in academic writing as it helps the reader to gain a basic summary of the work. The NU GSL limits abstracts to 300 words, but published academic journals may set lower limits. Your abstract is a brief summary, not an introduction to your thesis and is written in the “neutral voice.” An abstract concisely explains the context of your work, the problem, your answer or central thesis, previous answers, why those answers failed, why your analysis is better and the importance of your work. The abstract does not include quotes or citations and does not go into detail. The writer never repeats the same sentences in the introduction.

4.1.4 Acknowledgement

The acknowledgment is the only part of your thesis where you can write in the “subjective voice.” This means you can write in the first person, using expressions like “I wish to express my appreciation for the help provided by” Students can express appreciation in this element to those who supported or assisted them in their studies. However, you should avoid excessive, flowery language and a long list of messages of appreciation. There is no formal word limit but students usually write a half page or less. You can also omit this element in order to save on word length.

4.1.5 Table of Contents (TOC)

The table of contents (TOC) is a required element that every reader needs to navigate around your thesis, which is a rather long word document. You must learn how to create an

automatic TOC using word software. If you set your computer style to “Chicago” and limit the headings to three levels, then this will make it easier on you in the end.

A step-by-step guide to doing this for PC users is available on the *Writing Workshops Online Syllabus*. This will mean the headings and page numbers in your thesis are automatically listed in neat, precise order. As you revise and edit your work, the TOC will automatically update. The elements to include in your TOC include everything from the abstract to the reference section of the thesis. You should not include the title page nor repeat the thesis title in this section.

4.1.6 List of Abbreviations

A list of abbreviations helps the reader. There is no set rule on how many abbreviations and acronyms you can use, but a reasonable working number would be under 25, listed on one page. If there is a well-known abbreviation use it — do not create your own. If you do need to create an abbreviation, choose one that is 1) short, 2) informative, and 3) distinctive. See the *Checklist* at the end of Chapter III for some examples.

4.1.7 Introduction

The first chapter of any standard thesis is the introduction. About 5-10% of your thesis length is enough. In a NU GSL thesis the introduction should cover five topics. First, this chapter should describe the problem the student will write about. A “word picture” or story illustrating the impact of the problem can help. Second, the introduction should explain the answers or recommendations the thesis provides. This section of the thesis should mention the primary sources and important secondary sources the thesis uses to reach the student’s answer. If the thesis uses comparison, then this part must expressly defend your choice of comparison jurisdictions. Third, the introduction should make the student’s aims and perspective clear. This means writing about the goals you hope to achieve by writing about this topic and making your standpoint clear. For example, two students could write very different theses about a labor law problem with one writing from the perspective of workers, and the other wrote from that of the employers.

Fourth, the introduction should include a definitions section. The field of law is rich in terminology. This helps not only non-lawyers, who are sometimes called “lay” people but also other lawyers who are not familiar with terms in your field of law. The writer should not assume that all readers will understand your usage of technical terms. Therefore, you should provide brief explanations of a handful of terms that are important in your work. Last, the introduction should include a “road map.” This map is a paragraph, usually at the end of the introduction, which tells the reader what each chapter is about.

4.1.8 Body chapters

These chapters present the 1) background to the problem; 2) evidence gained from research, which in the GSL is often comparative evidence from other jurisdictions; and 3) analysis and recommendations for addressing the problem.. Each chapter must have an overview or foreword at the start. This does not have its own heading. The overview or foreword explains the highlights that will follow in the chapter. Each chapter should include a summary section at the end, which does take a heading. The summary section briefly reminds the reader of the main points covered in the chapter.

The primary chapter should be in your analysis. In the earlier chapters you might have described a problem and summarized information well, but the analysis chapter demonstrates your creative ability to synthesize existing information. That is, your complete research into the facts and law in a new way in order to make recommendations for resolving a real problem. In any event, a student is often awarded a graduate degree for the analysis chapter.

4.1.9 Conclusion

The aim of this part of the thesis is to tie the study together. This should be the easiest part of the paper if all the other aspects of the thesis are unified. The challenge is to pull together, or synthesize, what has come before in a creative, insightful way and to avoid dull repetition. The right

length is roughly 10% of your thesis. If your conclusion is too short, it is usually weak. Conclusions of a paper contain no new information, few citations, and rarely includes quotes.

The conclusion has three core elements. These are 1) restating the problem, 2) drawing the reader's attention to your findings, and 3) reiterating your recommendations. The writer may find it useful to revisit the “word picture” or story used in the introduction here to show how your recommendations would change the outcome.

However, the best conclusion does more than restate the problem, findings and recommendations, but it also fulfill four further roles. First, this section of your paper explains the significance or importance of the study. Second, the conclusion explores applications of the study in broader contexts. This might be in a different field of law in the same country, or in the same field of law in a neighboring country. Third, this last part of the paper acknowledges any limitations that affect the study such as peripheral questions you were aware of, but could not address due to a lack of time, space or data. Fourth, the conclusion makes suggestions for further research.

4.1.10 Appendices

An appendix is an optional section that is rarely used but is available for specific reasons. The appendices are placed before the references section and could contain unwieldy graphs, figures, tables, legal documents, or questions used in an interview process. If you use an appendix you must mention it at the appropriate point in the text, not the footnotes. Label any appendices with capital letters (A, B, C) or numbers (1, 2, 3) and clear titles.

4.1.11 References

A systematic and coherent reference section is compulsory. The CMS provides comprehensive instructions for constructing a references section. The writing courses in NU GSL will also teach you how to use Multilingual Zotero to make this process easier. There is no limit to the number of sources you can include, but the rule in the NU GSL is that you can only list the

sources you actually cite in your work. The page numbering in this area of your thesis follows on consecutively from the earlier elements.

You need to become familiar with the CMS in your first semester, and to learn the meaning of the terms “footnote,” “citation,” and “reference.” The CMS explains how to cite and reference many kinds of sources. You can access the CMS through any search engine for some of the basic examples, and there are a few examples in this guide (pages 15 and 16).

4.2 Small-scale Structure

This section discusses punctuation, sentencing, paragraphing, and other technical elements like headings and quotations. These are the building blocks for each chapter of your work. The student should pay close attention to these small building blocks as they greatly enhance your writing. This is often the area of greatest difficulty for many students.

4.2.1 Sentences

The student should avoid lengthy, overly complex sentence structures. Some key issues in good sentencing are making sure the subject is clearly identifiable; restrict the use of the passive; keeping your average sentence length at three lines or less; and clearly linking each sentence in order to build a tight logical thread through your argument. Also, you should double check for spelling (American style) and ensuring that verbs are not mixed in tense.

4.2.2 Punctuation

Punctuation is important. Even a change in the placing of a comma can change the meaning of a sentence. A basic rule is that emphasis comes from the words you write in academic writing, not from punctuation. You should use periods, commas, semi-colons and colons often, and dashes, parenthesis, and ellipses (in quotes only) occasionally. In addition, exclamation marks are never used in academic writing and question marks are used only rarely. Students who use dashes rather than

parenthesis should ensure that they do not confuse the *–em* dash and *–en* dash and realize that the use of these dashes are awkward (not all key boards are set up for this usage).

4.2.3 Paragraphs

These guidelines now require all paragraphs to be indented, and that there be no gaps between paragraphs, except for before headings (as exemplified in this guide). The typical paragraph will include a topic sentence, support sentence and conclusion or transitional sentence. There are three key concepts that are important with understanding paragraph structure: unity, coherence, and direction.

First, a paragraph is a group of sentences that all relate to one idea. This concept is called paragraph “unity.” The one core idea is found in a single “topic sentence,” which is usually at or near the start of the paragraph. All the other sentences in the paragraph are connected to and support this one core idea. In fact, if the topic sentences are all removed from a thesis, then you should be able to form an excellent outline of your argument.

Second, there should be a smooth, logical flow between the sentences in a paragraph. This concept is called paragraph “coherence.” You can achieve this by “overlapping” the content of each sentence with the content of the next sentence, or by using transition words (such as however, moreover, furthermore).

Third, there are several directions to which a paragraph may flow from a topic sentence. A paragraph might be organized spatially, chronologically, or by issues of importance. The student should make every effort to avoid jumping around in a paragraph. The exercise in the MWL will help in developing this skill of organizing a good paragraph and essay.

4.2.4 Titles and headings

Simplicity and clarity are essential for good titles and headings. Good titles and headings have little or no punctuation, consist of brief clauses, focus on one specific topic, and are spaced equally throughout the paper with an additional double space from the preceding paragraph (as

shown in these guidelines). These headings “stand alone” (as shown in this guide). This means that each title or heading stands on its own; the word or phrase used is not part of the first sentence that follows. If you intend to number headings (1.1.1) then make sure that they are consistent in usage of Arabic numbers, they are restricted to no more than three levels (not 1.1.1.1), and they are correctly punctuated (no full stop after last number). This also will make it easier when developing your headings on a three-level basis in your Table of Contents.

As the TOC is limited to two pages, this means there is a natural limit to the number and length of headings and titles you can use in your thesis. Too many headings throughout your thesis will chop your work up into a report; too few will leave your reader lost. As a general rule, each heading should cover material at least a page long. You should follow the heading hierarchy and style recommended in the *Chicago Manual* and which be set-up when develop your . All tables, graphs, and figures must be correctly accompanied with a heading.

Your thesis title should be less than two lines long and consist of no more than two brief clauses, perhaps joined by a colon or a dash. The clauses should describe the content to come clear and creatively, inviting the reader to follow your argument. Compare the impact of the following heading clauses.

Bland uninteresting heading:

Regulation and Compliance

Creative, descriptive alternatives:

Regulating to Promote Compliance

Regulation - Preventing Inconsistent Compliance

Regulation: the Compliance Dilemma

Regulation - Reducing Compliance Burdens

4.2.5 Quotations

There are three basic types of quotations: partial, embedded, and blocking. A “partial” quote can be anything from a single word or phrase to a partial sentence and usually requires a citation. An

“embedded” quote is a full sentence that reflects the direct opinion of some authority and must always be followed by a citation. Writers should “block” a quotation when more than 40 words are quoted. This means you must indent the quoted material. Block quotes should not italicized, do not take quotation marks (“ ”), but do need an authority and citation. The GSL requires single spacing for block quote as shown in the example below. According to *The Chicago Manual of Style*:

Block quotations, which are not enclosed in quotation marks, always start a new line. They are further distinguished from the surrounding text by being indented (from the left and sometimes from the right)...²

There is no limit on how many quotes you can use. However, the writer should avoid simply “stringing” quotes together to create paragraphs. This is poor scholarship and shows that you do not know how to explain or paraphrase. A good rule to follow is 3 x 3; that is, no more than three embedded quotes per page and no more than one block per three pages. The punctuation for all quotes should come before the quotations marks in this style of writing (the rule is punctuation, quotation, footnote number).

4.2.6 Quotation marks

There are differences between the British and American uses of quotation marks. You will need to be careful not confuse the two systems. The NU GSL uses the American standard. In this usage the double quotation marks (“ ”) refers to the exact material in the source, so the words quoted inside those marks must be exactly the same as what is in the source, even if there is an error or oddity in the words quoted. You must note the error or oddity by inserting [sic], which means “as is” following the error. In the American usage single quotation marks (' ') are used solely to indicate that a quote was present within the original text. Words used in a “special” sense are given double quotation marks; do not italicize this special words.

² *The Chicago Manual of Style: the Essential Guide for Writers, Editors, and Publishers*, 16th edition, Edited by University of Chicago, (Chicago: The University of Chicago Press: 2010), 623.

There are three styles of quotation marks: curled (“New Times Roman”); slanted (“Verdana”); and straight (older typing models). You should not mix these in your paper. The curled or “smart quote” is the standard for most academic writing. If you have trouble with this, you can correct the style of your quotation marks using the “Find and Replace” function in the [Editing] group on the [Home] menu in *Microsoft Word*.

4.2.7 Citations, footnotes, and references

A citation refers to the place that specific source can be found, and often includes name of the author, the title as well as the page number (unless *Ibid* is used). Citations can appear in one of three forms. They can appear as endnotes, footnotes or in-text citations. A footnote is placed at the bottom of the page. An endnote appears at the end of all writing, usually just before the references section. The in-text citations are found inside parentheses within the sentence (these are not used in your thesis).

The student should only cite and reference those sources used in the text of the paper. Each entry contains many kinds of information a reader can use to find the source for themselves. There is no rule about the minimum number of footnotes you should have. Instead the important thing is academic integrity. You must cite all facts, data, ideas, words and quotations you obtained from other sources.

There are no rules about the maximum number or length of footnotes. However, a paper that is heavily footnoted is often weakly argued and full of distractions for the reader. You do not need to add your own commentary to every footnote and many notes can be combined. The student should avoid having many footnotes within a sentence as this a serious distraction for the reader. Just acknowledging the source you have relied on is usually enough. As a guide, footnotes should not dominate the page; they should be no more than 25% of a page.

4.3 Formatting

This section explains some formatting issues you need to know to set up your thesis. The term formatting refers to the detailed rules about what a thesis looks like on the page. With good formatting, your thesis or paper will show enhanced quality and presentation of the research work — not just this time but in future as well. Publishers are strict about formatting as they must adjust a paper to the limited space available within their publication. Therefore, the student will find it worthwhile to begin learning basic requirements discussed here.

4.3.1 Margins

Margins can be set in the “Page Layout” menu in Microsoft WORD. The student can go to the “Page Setup” group and click on the “Margins” item. Choose the “Normal” setting. You should be able to set for standard A-4 paper, in centimeters. The top margin will be set at 35 mm, while the other margins will be set at 30 mm. Paragraphs should be indented and block quotations should align with the indentation.

4.3.2 Justification

The term “justification” refers to how the text is aligned on the left and right margins. A writer has the option of “left-justified” (ragged on right), “right justified” (ragged on left), and “fully-justified” (blocked). This guide provides an example of the option preferred in the NU GSL, the “left-justified” document. You can choose this option in the [Paragraph] group on the [Home menu] in *Microsoft Word*. When you reach the revision stage of your paper, make sure to double check that all margins follow these recommended standards.

4.3.3 Pagination

The term “pagination” refers to the correct order and placement of numbers within a document. There are many different formats. Please follow the numbering format shown in this guide. This means using small Roman numerals (i-x) for all pages before your introduction, except

for the title page, which is not numbered. After the TOC, the student will use Arabic numerals (1-10) for all the rest of the pages in the thesis, right through to the final page of the references section.

All numbering must be centered and placed at the bottom of the page. The thesis should begin each chapter on a new page but following the pagination from the chapter before (as shown in this guide). The student should not use a further or secondary page numbering system within your chapters.

4.3.4 Line spacing

The student should take keen notice of the line spacing and sentence development within these guidelines. You should use single spacing for chapter headings, block quotations, tables, figures, graphs, the Table of Contents, footnotes, and the references section. For between sentences, use either 1.5 or double spacing, including for the “gap” between paragraphs. The new paragraph that follows a sub-heading is double spaced for all headings except the space between chapter titles and the first sentence of each chapter which should be set at 2.5 spacing. The references section text should be set at 3.0 from the heading. This guide provides an example of the line spacing that AW team recommends.

4.3.5 Tables, graphs, and other figures

The CMS will help you to place tables, graphs, and other figures into a paper. These types of entries should not exceed the margins of a page or expand beyond a single page. If you want to include a large or complicated figure, then put it in an appendix. All figures must include a heading and a source. The student must create their own tables and figures and make sure they are properly explained (do not cut and paste tables and figures). If you need to use a map, consult with an AW mentor or your supervisor. The heading for such entries goes at the top for tables and at the bottom for other figures. The font should stay the same for headings, but the font size within the framed display should be smaller than in the main text, as with footnotes which are 10 point size.

4.3.6 Widows and orphans

A “widow” is a short line or single word that ends a paragraph on one page but appears alone at the top of the next page. An “orphan” is a heading or sub-heading that appears at the bottom of a page with the text belonging to it beginning on the following page. Widows and orphans detract from appearance and readability of your thesis. You should make a final check of your paper just before submission to make sure it does not contain these issues. Word processing software can be set to automatically prevent both “widows” and “orphans.”

Chapter V: Conclusion

Regardless of personal background, the writing of an academic paper is often a new skill that must be learned. Simply being a good “writer” is not enough to satisfy the expectations in academic writing because it requires an understanding of how to integrate and express difficult research ideas into a more readable paper. Whether you intend to enter an academic or a professional field, writing skills need constant development and practice. Such practice is even truer when working in a second language. The writing of a thesis is one of the fundamental stages in learning how to structure and organize a paper as part of this practice.

As you are now learning, there are many ways to write and present a paper, but the writer must work within expected guidelines of a respected discipline. Such expectations are not done to curtail creativity but to ensure consistency with a field of study so that understanding and agreement might be reached between the writer and reader. After all most papers at this level are not done just to inform but to persuade the audience. Thus, the AW Team developed these guidelines to assist you in this endeavor.

These guidelines represent a general standard of expectation written in an instructional way. There were several aims in developing this guide. The first aim was to provide the student with a mental picture of a thesis that much of the faculty hope to see by the end of the study. The second aim was to help students understand many of the details related to style, format, and organizational issues related to writing an academic paper. Because there are many styles and formats, a student would easily become lost if left to go through all the different books dealing with the topic of writing academic papers. Thus, the AW team elected to follow the style and formatting closer to what is recommended in *The Chicago Manual of Style*. The third aim in developing this guide was to establish a standard of consistency and coherency between the writer, the supervisor, checker, and the reader. While the guidelines will continue to be a work in progress, the AW team hopes that this guide in combination with the classes will answer most of the needs of the students in pursuit of a Master’s degree in the GSL department.

In order to assist students and the final English checker with processing a full reading of a thesis, the guide provides a check list on the following page that should be used prior to final submission of the thesis. The student should consult with the supervisor that all content and structure is set before submitting the paper. Before an English check is completed, the thesis will be subject to a software called *inthenticate* to check for authentication of the writing. Students may need to make corrections to the paper before actually receiving a complete English check.

5.1 Checklist: Before Submission of Preliminary Check

1. Does your Title Page include all the necessary information, required by the Library?
2. Is the word count less than 20,000?
3. Is the Abstract less than 300 words?
4. Do the titles and page numbers in the Table of Contents match the titles in the main text?
5. Did you use American spelling and grammar?
6. Did you use the spelling and grammar check function in your word processing software?
7. Is the subject clear in each sentence?
8. Did you reduce passive verb forms down to 10%?
9. Is your average sentence length 20 words?
10. Does every paragraph have a clear, single topic sentence?
11. Do all other sentences in each paragraph support the clear, single topic sentence?
12. Does every paragraph contain a clear, logical “transition” word or phrase?
13. Did you check for mixed verb tenses?
14. Did you check for word repetition?
15. Do all your quotes have an authority and citation?
16. If you used block quotes are they correctly aligned and properly cited?
17. If you used tables, figures or appendices, are they properly labeled?
18. Do your citations follow the Chicago Manual of Style (or The Bluebook as needed)?
19. Is your font the same throughout and at 10.5 pt. for text and 10 pt. for footnotes?
20. Did you provide a List of Abbreviations?
21. Did you define key terms in your Introduction?
22. If you used surveys and/or interviews, were they cleared with your supervisor?
23. If you used surveys and/or interviews, are they explained in the text?
24. Does your references section follow the Chicago Manual of Style?

Appendix A: Example of Proposal (Footnotes have been removed)

The Problem of Incorporating References into Commercial Contracts in Vietnam

Introduction

Since 1958, 146 countries have signed and ratified the *Convention on Recognition and Enforcement of Foreign Arbitral Awards (New York Convention)*. The primary reason for such a convention was to protect international business contracts from the interference of domestic courts. However, problems have emerged concerning the nature and concept of how Article II of this *New York Convention* (NYC) should be applied in some nations.

Article II refers to the concept and recognition of arbitration agreements in writing; however, the Article does not clarify how an arbitration clause should be incorporated in documents by reference. A majority of countries that have signed the convention have no direct issue with Article II, but some countries question the validity of the concept of arbitration agreements in writing. The problem of incorporating by reference is a legal issue in Vietnam. The objective of this research proposal is to assist in understanding the design to be applied in the final thesis by explaining the problem, the purpose, and the thesis statement.

Problem statement

The essential problem concerns the issue of how Article II of the NYC does not specify clearly how business contracts should incorporate arbitration clauses by reference. Historically, companies seeking to do international business did not need an arbitration agreement but rather depended directly on domestic courts in a dispute. Arbitration emerged as one way to protect business from domestic courts. However, governments failed to clarify arbitration laws, which led to the development of the *New York Convention*. Article II remains problematic with regard to the validity and nature of arbitration agreements in writing. Vietnam has attempted to update its law regarding arbitration, but the issue needs clarification.

The present debate on Article II centers on three points. First, some legal scholars feel this Article is unclear because it only applies to circumstances where the arbitration clause is contained in the document exchanged by the parties. Second, other experts wonder if the Article applies to these first circumstances and to the concept of *relatio perfecta*. This particular concept of *relatio perfecta* means that an arbitration clause might not be contained in the contract but the same agreement makes reference to such clause in a separate document. Third, other commentators question whether or not Article II applies not only to the first circumstances but also to the concept of *relatio imperfecta*. This final concept of *relatio imperfecta* means that the document exchanged by parties did not contain an arbitration clause but made reference to adopting a document containing such a clause.

The United Nations Commission on International Trade Law convened and passed the *New Model Law* in 2006 to response to these three views of Article II of the NYC. According to Pietro (2006), much of the historical case law supports the view that Article II includes the first circumstances and *relatio perfecta*. However, much of the recent debate centers on the concept of *relatio imperfecta*.

The aim of this study is to focus on some countries that have used the *New Model Law* (2006) to assess if it clarifies Article II and specifically problems associated with *relatio imperfecta*. The study focuses on Vietnam as a country with problems associated with *relatio imperfecta*. In Vietnam, the legislators passed the *Law on Commercial Arbitration* (2010). However, this newer legislation still does not conform precisely to the *New Model Law* (2006).

Thesis statement

Many nations have begun to adopt Article VII, paragraph 6, of the *New Model Law* (2006), which takes a broader approach than the NYC. Article VII speaks directly to the issue of incorporating arbitration clauses by reference into business contracts. While not compelled to adopt any aspect of the *New Model Law*, Vietnam has recently attempted to respond to this issue of

incorporation by reference in 2010. Vietnam promulgated the *Law on Commercial Arbitration* (2010), which includes a provision on incorporation by reference, Article 16.

However, this thesis analyses the weakness of this recent reform. In Vietnam, subtle differences between the recent reform and the *New Model Law* could result in future problems with regard to arbitration. Basically, the present reading of the new provision in this law in Vietnam could handicap some business that fail to see these differences. Finally, misreading of this provision could actually lead to a refusal of arbitral awards.

For example, in the United States such a problem arose in the case of *David Threlkeld v. Metallgesellschaft Ltd.* (2d Cir. 1991). In this case, the opinion of the Supreme Court was that the relevant arbitration clauses had been incorporated by reference and “became part of the contract” between the parties. In another case, in Switzerland the arbitral tribunal considered whether or not an arbitration clause in the main contract referred to the sub-contract. In India, there was a similar case between *M.R. Engineers & Contractors Pvt. Ltd. vs. Som Datt Builders Ltd.* (2009) where the High Court rejected the application of the appellant on the ground that there was no arbitration agreement. Therefore, the problem remains in the area related to *relatio imperfecta* that some countries do not implement precise provisions on how to incorporate arbitration clauses by reference.

Purpose

The purpose of this research is to explore and understand the *Law on Commercial Arbitration* (2010) in Vietnam as it relates to the problem of incorporating by reference. Through these means the study provides evidence as to how such an incomplete reform could be problematic for future international business. Therefore, this study includes evidence from other countries such as the United States as to how such subtle differences between legal provisions in this area affect arbitration.

The analysis covers several points: 1) the key laws and terms in the field of arbitration; 2) a discussion of the reform in Vietnam; and 3) a comparison of countries with similar issues, in particular those that have employed the *New Model Law* (2006). The research includes an

explanation of the NYC, the *New Model Law* (2006) and the Vietnamese *Law on Commercial Arbitration* (2010). Furthermore, the study provides a present look at countries such as the United States, which have issues with their arbitration law. Nations such as Singapore, Switzerland, and Japan are discussed because they have implemented law that is more in line with the *New Model Law*.

As a result, of using a more precise definition of incorporation by reference, these three nations have decrease the number of problems related to the authority of an arbitral tribunal or court to resolve disputes between parties and the refusal of arbitral awards. Therefore, the evidence from this research suggest that nations such as Vietnam could avoid *relatio imperfecta* disputes by framing their arbitration law to more closely follow the provisions of the *New Model Law*.

Conclusion

In conclusion, the objective of this proposal was to explain the problem, thesis statement, and purpose of the research proposal for the reader to comprehend the research design of the thesis. The basic problem concerns how some nations interpret Article II of the NYC with regard to how a business contract should incorporate arbitration clauses by reference. In this study, Vietnam provides a clear example of the problems that currently arise in this area. The thesis statement for this study maintains that countries that fail to implement exact provisions on how to incorporate arbitration clauses by reference will only make it difficult for future commercial transactions. The purpose of the thesis is to explore possible solutions to the weakness of the Vietnamese *Law on Commercial Arbitration*. The method followed will include archival research that eventually brings together these key points into a five-chapter thesis.

Appendix B: Example of Mid-Term Report (Footnotes have been removed)

The Problem of Incorporating References into Commercial Contracts in Vietnam Introduction

This mid-term report presents an overview of the progress of a study on the topic of the problem of incorporating arbitration clauses by reference in Vietnam. While many countries may have such a problem, this study focuses on the problem under Vietnamese commercial law. The original proposal discussed the problem, the purpose, and thesis statement for study. This report includes a review of these points and a possible structure of the thesis, but most importantly an update on the materials analyzed for the study.

Review of proposal

The research to date continues from the proposal submitted several months ago. The key points of the proposal presented the problem statement, the thesis statement and the purpose of thesis. The present research intends to investigate possible solutions for the weakness in the arbitration law in Vietnam with regard to incorporating by reference. The problem statement explained the issue of how Article II of the *New York Convention* does not specify clearly how business contracts should incorporate arbitration clauses by reference. The thesis statement analyzes the issue of incorporating arbitration clauses by reference into business contracts under the *New York Convention*, the *New Model Law* (2006), and domestic law. The purpose of the research is to explore and understand the *Law on Commercial Arbitration* (2010) in Vietnam as it relates to the problem of incorporating by reference.

Present research

The present research concentrates on analyzing books, articles, and case law to clarify the issue of the problem of incorporation by reference into commercial contracts. The basis of the thesis derives from a question in one chapter of the book entitled *Enforcement of Arbitration Agreement and International Arbitral Awards: The New York Convention in Practice* (2003). In this text,

Domenico Di Pietro explains raises questions regarding incorporation by reference into contracts. The thesis statement expands from this point to show how the problem exists in Vietnam.

Other secondary books related to this problem being analyzed at present are, for example, *Concise International Arbitration* (2001) which presents some comments regarding how to interpret Article II of the *New York Convention* and Article VII of the *New Model Law*. The book edited by Emmanuel Gaillard and John Savage entitled *Goldman on International Commercial Arbitration* (2004) provides some general chapters regarding arbitration agreements. The fourth edition of *Law and Practice of International Commercial Arbitration* (2003) offers an overview of the definition and basic explanation of an arbitration agreement. *International Commercial Arbitration in Asia* (2006) includes an overview of arbitration in Asian countries such as Japan, Singapore, Hong Kong (China).

Moreover, the research also analyzes articles and case law regarding arbitration agreements in general and arbitration clauses incorporated by reference such as Gordon Smith's *Commentary on the New Singapore International Arbitration Centre* (2005). The present research looks at some specific cases concerned with the incorporation of arbitration clauses, for example, *HM Secretary of State for Foreign and Commonwealth Affairs v. The Percy Thomas Partnership and Kier International Ltd.* under the English Arbitration Act (1996). Another case is *MR Engineers & Contractors Pvt. Ltd v Som Datt Builders Ltd.* (2009) in which the recommendation was that when parties want to have a dispute dealt with in arbitration, they should make an effort to incorporate an arbitration clause into their agreements by writing or making specific reference to the part of a separate document containing this arbitration agreement.

The present research also includes a comparative study of arbitration acts in Japan, Singapore, Switzerland, and Vietnam. While the problem under study exists in Vietnam, the situations in Japan and Singapore show how these countries are dealing with similar issues and Switzerland serves as a country with a broad approach to the problem. The research process encompasses searching the library and websites for applicable cases to illustrate the problem and

provide possible solutions. The evidence from these cases should help to explain and clarify the necessity of further reforming the Vietnamese *Law on Commercial Arbitration*.

Structure of thesis

At present, the thesis structure includes five chapters following the standard design. This thesis will begin with an abstract followed by an introductory chapter, three body chapters and a conclusion chapter. The planned design should require between 45~54 pages, including footnotes and a references section. The thesis might include one or two tables in order to illustrate some data.

This section of the mid-term report will briefly highlight the key points of each chapter. Chapter I will present the general structure of the thesis and explain the main points concerning the over-all research design. This presentation will include a general introduction and background discussion to clarify the complexity of the problem. The purpose statement allows for understanding of the issue in Vietnam on incorporating by reference. This chapter includes the definition of terms, a brief literature review, and explanation of the method of study due to the technical nature of the problem.

Chapter II focuses on the provisions in the *New York Convention*, the *New Model Law* (2006), and domestic laws regarding arbitration agreement and incorporation by reference, as well as comparing the different interpretations of the *New Model Law* in Japan, Singapore, Switzerland, and Vietnam. The analysis in Chapter III concentrates on the definition of and problems with incorporation by reference in the *New York Convention* and the *New Model Law*. The content of this chapter will present how this relates to Vietnam and the increased potential for difficulties in arbitration.

Chapter IV will present evidence for a possible solution to the present issue in Vietnam. After analyzing all the issues in the first three chapters, this chapter of the thesis moves from possible solutions to recommendations. Chapter V presents an overview and summary of the thesis. The results from the thesis provide recommendations that hopefully will lead to the reform of

Vietnamese law in order that international business need not worry about domestic courts intervening in arbitration.

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