Prof. Dr. Thomas Schmitz Semester 1, 2024/2025

METHODOLOGY OF LEGAL RESEARCH AND LEGAL WRITING

Updated course material from a course contribution in Semester 1, 2022/2023

A quick guide how to avoid common shortcomings in legal publications

I. Introduction

As a foreign guest lecturer, I am sometimes asked for peer reviews of contributions in legal science in English submitted for publication in conference proceedings or law journals. Often they cannot be accepted without revision because they do not meet some intellectual or formal standards of scientific legal research. In some cases it turns out that the rules in the publication guidelines of the conference or law journal prevent them from doing so. I often find the same kinds of shortcomings in contributions that have been published and in the course papers of my students. Apparently there are some deficiencies that for some reasons are common in legal writing in Indonesia, but I have also met them in other countries. This guide for young researchers shall raise awareness and help to avoid them.

II. Be aware that a publication in English is addressed to an international audience

It is a strong point of the Indonesian legal education system that it generates a high number of young lawyers with excellent English language skills who are able to work on a professional level in English. International exposure is encouraged and there are many conferences and journals publishing contributions in English. Often they are made freely available in the internet, so there is a chance that your contribution may be read worldwide. However, there are some aspects to consider:

1) Be aware that a publication in English is a chance but also a risk

Be aware that a publication in English in the internet is not only a chance but also a risk: Anyone in the world can check easily the quality of your scientific legal writing. If you apply for postgraduate research abroad, a scholarship or a job in an internationally orientated law firm or organisation or if a foreign university considers inviting you as a speaker to an international conference this may well happen. In this case any flaws in your work will reduce your reputation as a researcher and, thus, your chances. It will not be an excuse that your work complies with Indonesian standards, conventions or publication guidelines. Therefore, you should not follow any rules or guidelines which practically force you to publish in bad quality and, if the editors are not flexible, rather withdraw your submission.

2) Provide the necessary service to the foreign reader

Do not forget that publications in English are not addressed to other Indonesians only but to an international audience, including lawyers who do not know Indonesia or understand Bahasa Indonesia. For this audience you may need to explain certain backgrounds briefly. You must not use typical Indonesian abbreviations unless you explain them. You need to *translate the official titles of laws, public institutions, and courts* [or add an English translation in brackets]. When citing *laws and court decisions*, you need to *specify where to download them and*, if available, *an official or trustworthy English translation*. It is necessary to provide this service to the foreign reader since otherwise he will not be able to verify if your information is correct and, thus, cannot trust it. By the way, whenever citing court decisions of any countries, you must specify the name of the court in the reference and refrain from using specific national abbreviations or citation styles, which readers from other countries would not understand, unless you explain them. You will probably not find these standards in the official rules: You need to *think* on your own *what the foreign reader needs* to understand the context and follow your ideas.

III. Scientific work is thorough - do not try to discuss a complex subject in a short paper

One of the most common problems of scientific legal writing in Indonesia is that the contributions are too short and superficial to thoroughly discuss the problem at hand. Current legal problems in the modern society are often too complex and there are too many aspects and sub-problems to consider to be dealt with on a few pages. Moreover, they often occur in many countries and may already be discussed in other countries in a sophisticated differentiated way, with numerous positions and arguments that cannot be ignored in the domestic discussion without distorting it but do not allow to keep the paper short. A volume of less than 10 A4 pages is usually inappropriate for any legal research, even in a student's course paper. Most topics will require a paper of at least 15, 20 or more A4 pages with numerous references in footnotes. This is why, from the perspective of an international legal scholar, some contributions to conferences and law journals may seem more like a school essay than a scientific publication. Therefore, you should carefully choose and narrow down your research topic. In exceptional cases it may also be helpful to discuss with the editors if they may accept a larger manuscript than usual.

IV. A scientific paper is well-structured by a logically and materially consistent cascade of headlines, sub-headlines and sub-sub-headlines

Another common problem of scientific legal writing in Indonesia is the lack of appropriate structuring. A scientific paper must be well-structured by a cascade of numerated headlines, sub-headlines and sub-sub-headlines which is logically and materially consistent, expressive, detailed and *reflects clearly and precisely the line of thoughts*. Long unstructured texts are inappropriate. The structuring must be strictly *in line with the legal dogmatics* and the structure of the relevant field of law. Inconsistent or merely associative headlines like in an essay or magazine article are not allowed.

It can be a challenge to meet these standards. Usually you will need to invest a considerable intellectual effort on this step. This is not just formalism: Any inaccuracies in the structuring or the formulation of the headlines indicate to an experienced reader a lack of reflection or a lack of understanding of the subject matter or the relevant law.

Avoid any stereotype empty formalistic structuring because it leaves an amateurish impression. Your paper must be structured individually, with regard to the discussed topics, not following in a bureaucratic way a general pre-formulated scheme. Science does not allow bureaucratic formalism. The stereotype subdivision into "Introduction", "Research Background", "Problems", "Research Method", "Discussion" and "Conclusion" etc. may be common in some countries but is inappropriate for legal science and raises the suspicion that the author does not really know what legal science means. You may use this structuring scheme as a mental guideline but you need to formulate specific headlines which refer to the contents.

Some recommendations: As for the "problems", they often can already be addressed in a longer, more elaborate introduction. As for the "research method", it only needs to be clarified if you do *not* follow the so-called "normative approach", as it is called in Indonesia, which actually is the standard approach in legal science. The appropriate place for that would usually be at the end of the introduction.

Avoid a part with the title "Discussion" since such structuring would seem amateurish and ludicrous in a scientific text. Instead it is appropriate to have several main parts with headlines referring to their contents. Do not forget that *all main parts must be structured in detail* with various divisions, subdivisions, sub-subdivisions etc. and a coherent, *carefully thought-out multi-level system of headlines*. In Indonesian papers the part "Discussion" is often not structured sufficiently.

V. A scientific paper is not an essay but a well-focused and concentrated, precisely formulated and tightly written text

A scientific legal paper is not a literary work. It must not be written in the relaxed, often digressive, lengthy style of an essay in a newspaper or magazine but in a condensed, concentrated style, well-focused and precisely formulated, packed with but also limited to relevant and significant information and reasoning and as short as possible in regard to it. Its wording needs to be precise, not beautiful, and rhetorical means may only be used with restraint.

A scientific legal paper does not need to be entertaining. So do not include anecdotes, unnecessary examples or other illustrative contents. By the way, this is also a common problem of conference presentations: Often they miss their purpose because they are rather entertaining than scientific.

VI. A scientific paper is written in an objective, not subjective style of writing

In science the content matters, not the personality or the feelings of the author. Therefore, strictly *avoid any emotional expressions, exaggerations or other subjective expressions*. Writing in the first person ("I consider...", "we hold..." etc.) is taboo - except if you are a Supreme Court judge in a Common Law country. Instead of the the subjective expression "very" the lawyer will usually use the term "considerable" which expresses that according to his assessment the dimension of something is legally significant. Moreover, *avoid purely confirmative expressions*, such as "certainly", "of course" or "without doubts" because they cannot surrogate sound legal reasoning but make the experienced reader suspicious: They indicate that in reality something is not at all certain and there are reasons for doubts. Usually it is exactly here where you find the flaws in the author's reasoning.

VII. A scientific paper transparently discloses the applied legal methods and does not try to replace legal reasoning by moralising or religious reasoning

In legal science you are not free in the way of your reasoning but bound to the rules of legal methodology. These rules refer, first of all, to the classical *canons of statutory interpretation* (literal, systematic, historical and teleological interpretation). In countries with a developing legal system, the *comparative approach* is also important. It usually serves as a rich source of inspiration within the teleological interpretation. In the field of constitutional law, two additional specific methods are discussed: the interpretation with regard to the unity of the constitution and the interpretation according to the principle of practical concordance between conflicting rights and principles.

Do not forget that the interpretation of legal provisions is limited by their wording. Outside these limits, a *legal analogy* may be appropriate but it requires specific justifying reasons. Your reasoning must show clearly if you are still interpreting the norm or applying it analogously. Furthermore, in legal science the not so clear rules for the *judicial further development of law* and its limits play an important role, and in this context again the comparative approach.

Your legal reasoning must make clear at every point which legal method you are using. This is a requirement of scientific transparency. Moreover, your *scientific work must be limited to legal reasoning*. Political reasoning is inadmissible, except if your work is about law de lege ferenda (a future law that you would like to propose). In this context you may switch to specific law-related political reasoning at the end of your paper but need to mark clearly (e.g. by starting a new part under a new headline) where you leave the realm of legal methodology and, thus, legal science.

Do not try to replace legal reasoning by moralising or religious reasoning, since this would deprive your work of its nature as a work of legal science. First, as a lawyer you are not qualified for that, since it would require a thorough philosophical and theological education. Second, *moral and religious considerations are generally irrelevant in legal science*. Law does not follow moral or religious rules but is independent of them, sometimes even contradicts them, and forms a different social sphere. Something that is allowed under the law may still be inadmissible in the society for moral or religious reasons and sanctioned by the society - but by social sanctions (criticism, boycott, social exclusion etc.), which are irrelevant for the lawyer, and not by legal sanctions. So better don't try to bring your interpretation of the civil code or the constitution in line with the Koran or the Bible...

> Only in exceptional cases, namely for the interpretation of indefinite legal concepts that obviously refer to moral or religious rules (e.g. the term "religious values" ["nilai-nilai agama"] in art. 28J(2) Constit. 1945), moral or religious considerations may play a limited role. Even then they are not decisive but only provide auxiliary considerations within the interpretation of the norm. That interpretation needs to bring them in harmony with other, potentially conflicting norms, e.g. the Pancasila principles, the rule of law or the fundamental rights - and all that must become clear in your legal reasoning. For example, the term "public morals" in a legal provision does not automatically make moral rules to binding norms but must be interpreted itself in a restricted way that respects the idea of the fundamental rights of the citizens, which includes the legal right to act immorally. To apply legal methodology correctly may not be easy in these cases.

VIII. Legal science is first and foremost a normative and hermeneutic, not empirical science

A ***special problem*** lies in the so-called ***"socio-legal" approach***, which is a minority approach in legal science but dominating in Indonesia. This approach largely builds on empirical research. Some Indonesian law schools have apparently rejected it[1] but it has a strong influence on others and sometimes condenses in preposterous rules in thesis and publication guidelines. Be aware that there is a *global broad consensus* that legal science is essentially a normative and hermeneutic, not empirical science. It is about interpreting the law, systematising it, exploring its concepts, analysing the jurisprudence, building up sophisticated, consistent and differentiated legal dogmatics, comparing the law with the law in other legal systems and continuously developing the law inherently by jurisprudence and scholarly doctrine. A legal scientist usually sits behind his desk, reads, studies, analyses and thinks but does not perform empirical research. This does not mean that he is not interested in what is happening in real life but for that he builds on the research of his colleagues from the social sciences. Consequently, legal education does not include instructions or training in empirical methods. There is a special discipline called *sociology of law*, which is in fact an empirical discipline, but it is *only a side discipline*, a subsidiary subject for a small group of specialists that complements legal science, like legal history, legal economics and legal psychology. So be aware that lawyers all over the world will be irritated if you present them empirical research as legal research - except if they belong themselves to the minority that follows the socio-legal approach. Most legal scholars in most countries would not consider many Indonesian legal publications as legal science but as social science or something in between. Therefore, if you perform empirical research make sure that the first part of your paper about the theoretical backgrounds is thorough, exhaustive, up-to-date, intellectually sophisticated and demonstrates well that you do not only master the empirical methods but also legal methodology, as described above (see supra, VII.). Otherwise you may not be considered as a lawyer at all.

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[1] See on the discussion *Peter Mahmud Marzuki*, Legal Research, Kencana, Jakarta 2007, p. 87 ff.; *Victor Imanuel W. Nalle*, The Relevance of Socio-Legal Studies in Legal Science, Mimbar Hukum 27 (2015), no. 1, p. 179 ff.; *Danang Hardianto*, Reorientation towards the Nature Of Jurisprudence in Legal Research, Mimbar Hukum 26 (2014), p. 340 ff.

Nevertheless, there are reasons for the strong influence of the "socio-legal" approach in Indonesia. Be aware that these reasons do not exist in countries with a highly developed legal system and therefore you may need to explain them to the foreign readers. The first reason lies in the important role of customary law [hukum adat] in Indonesia. The existence of a customary norm presupposes a common practice in the relevant population and the common opinion that this practice is legally binding - both can only be established by empirical studies. Foreign readers may not be aware of this problem because in their country customary law hardly exists anymore. The second reason lies in the sometimes low compliance with the law in Indonesia. The law is often rather considered as a vague general guideline but not as absolutely binding in every single case. Therefore, unlike in countries where the law is almost fully respected or enforced, it is useful to conduct empirical research in Indonesia to assess if and how the prevailing law is accepted in practice or whether a proposed legislation would fit with the local society and, thus, have a chance to influence the real life.

So the socio-legal approach is useful for legal science in Indonesia but as a complement, not replacement for legal methodology. It must not be confused with legal science as such, and your paper must show that you are aware of the difference. Another complementary approach that has been trendy in the last decades is the neo-liberal economic approach, the economic analysis of law. You are free to follow these approaches, but you need to explain and justify it briefly in your paper (preferably at the end of the introduction). On the other hand, *do not explain or justify when you are following the classical legal methodology*, which is often called the "normative approach" in Indonesia. Be aware that the so-called *"normative approach" essentially stands for legal science!* Therefore, avoid the common but inappropriate stereotype explanations about the "normative approach" in a special section on "research methods", and also the often following stereotype explanations about primary, secondary and tertiary sources for your research, since this is all self-evident for a lawyer. In the eyes of many foreign scholars, such redundant remarks may automatically disqualify you as a legal scientist. In the case that your paper is primarily addressed to Indonesian readers and they may otherwise be irritated, you may add one short sentence at the end of your introduction: "This research follows the 'normative approach', which is the standard approach in legal science."

IX. A scientific paper takes account of all relevant jurisprudence and literature on the topic

A paper in legal science needs to give due consideration to all relevant jurisprudence and legal literature on the topic. This is a standard of scientific thoroughness. It demands first of all that no relevant decision of the domestic supreme or constitutional court and no relevant domestic legal publication on the topic must be ignored. This is not a problem in Indonesia. Things become more *complicated if you follow a comparative approach*. When comparing the domestic law with a specific foreign law, you need to present and discuss at least all important foreign jurisprudence and literature on the foreign law. Be aware that a comparison with the law of several countries may cause an excessive workload!

Often the research will not focus on a specific country but on how a certain problem is discussed or a certain concept understood and implemented generally in the world. In this case it is evident that it is impossible to consider all relevant literature and jurisprudence but that you must focus on a selection of helpful sources. It is also evident that doing your research in Indonesia you cannot focus on the best and most relevant sources since most of them will not be available in the country. So there is no other way than to *focus on the best available relevant sources*. However, there are some aspects to consider:

1) Seek to include the newest and most important publications in your research

Focus on the newest and most important relevant publications as far as you can get access to them. Do not only study journal articles but also textbooks, commentaries, handbooks and anthologies, which still form the most important source in legal science. However, be aware that they are usually outdated if they are older than 3 to 4 years. So the books in the local law library may not be so helpful. If you want to know if a recently published book is relevant for your research, look up its table of contents at Amazon.

In some cases *fellow students and lecturers* studying *abroad* at places with excellent law libraries *may help you out* with copies from selected print publications as pdf files. At some European or North American libraries they have access to almost any important publication in their field of law in the world. You can only ask for a few copies of short excerpts and you will need to specify precisely which pages to copy but it may be a chance to access high quality literature which otherwise will be out of reach.

If your research is on fundamental issues and backgrounds you should *browse the scientific web repositories*, such as Jstor, Researchgate or SSRN. They republish journal articles and other short contributions of legal

scholars. These articles are old but freely available and some may have been milestones in the development of legal science. Browse for classical articles there. Check also at Google Scholars.

2) Do not consider internet publications representative for the discussion in legal science

Many papers draw a distorted picture of the discussion in legal science because they rely predominantly on internet resources. In legal science most of the debate still takes place in the print media. Most scholars, in particular the more prominent ones, still prefer to publish in the traditional formats. Therefore, do not consider what you read in the internet as representative for the discussion!

3) Do not consider contributions from common law countries to reflect the state of legal science just because they are published in English

Sometimes Asian authors get a wrong impression of the state of legal science because they rely lopsidedly on publications from common law countries since they are in English. These publications are not necessarily meant as a contribution to the international debate but may well have a local context, be addressed to the local audience, refer to the not so developed local law and emanate from a local lawyer who is not really qualified for the international scientific discourse. They may still be interesting but to confuse them with the state of the art in legal science will lead to shortcomings.

> For example, some authors in common law countries still understand the concept of the rule of law in an archaic, narrow sense, limiting it basically to the principle that the public authorities must follow the law and some formal and procedural guarantees. In advanced legal systems and in modern legal science, however, it has evolved already decades ago to a *comprehensive concept of rule of law* that includes numerous formal and material (substantial) principles of law. Relying on publications from common law countries only bears the risk to ignore this important development.

Be aware that English has only recently become a general lingua franca in legal science. Many of the most sophisticated discussions are still conducted in French or German. Spanish is also important, as is Arabic in the field of Islamic law. If you are able to do so, explore the legal literature in one of these languages too!

Be also aware that in the last 30 years most important impulses in legal science did not emanate from common law countries but from Europe. Legal science in America suffered drawbacks because conservative forces tried to eliminate the progress of the past, and the society, including the community of legal scholars, was deeply polarised. In Europe, however, an intense, open and innovative, transnational scientific discourse unfolded, due to the transformation of the former communist states to democratic constitutional states based on the rule of law and to the challenges of the advancing progress of European integration. American scholars were often involved but as part of the European discussion. Numerous collective publications emerged that combined innovative contributions of scholars from a broad spectrum of countries in English. Depending on your topic it may be here where you find most inspiration.

X. A scientific paper backs all information by precise and accurate references which allow to verify it

Many papers suffer from an inadequate practice of scientific citing. Often a large part of the necessary references in footnotes is missing or the given references are incomplete or not formulated correctly.

1) No plagiarism!

Most authors have internalised the standard that they must acknowledge the source when building on the information or thoughts of others. This is a standard of scientific honesty. Plagiarism is a serious reproach, and everyone is aware of that, but students are unaware how *easy* it is *for an experienced reader to detect* it. In most cases you do not need a special software but just to enter a short excerpt of the text as a string into an internet search machine and you will see within seconds where the text originally comes from. An incoherent terminology or changes in the style of writing or citing indicate that the author has "copied & pasted" parts from different sources. A flowery or journalistic style of writing indicates the not the author but artificial intelligence has formulated the text. If you try out yourself and find out that someone's interesting ideas originate from someone else, cite the original, not the plagiarism.

2) Back every single information by a reference

Unfortunately, the second reason for references in footnotes is largely ignored in Indonesia (as in some other countries): Every single information in your text which is not evident (obvious) must be backed by a reference which allows the reader to verify it. Otherwise he cannot trust it. This is a standard of scientific accuracy. It will usually require at least one or two references in every longer paragraph. You do not need to back up by citation that the Earth is a ball and not a disk but almost everything else. You must in particular back up reports about the scholarly discussion or individual scholarly positions with detailed and differentiated references, also on critical and minority opinions. This is also a standard of thoroughness: In legal science, unlike in political and social sciences, you are not allowed to confine yourself to present and discuss the positions of a few selected scholars because this would be manipulative. All this causes a significant workload but is essential for legal work. By the way, AI chatbots usually do not comply with this standard or even "hallucinate" sources that do not exist. Therefore, a lack of references in the footnotes may rise the suspicion that you have not performed the research yourself!

3) Specify what exactly is the information and where exactly it can be found

In your references you need to explain what exactly the information in the cited source is and where exactly the reader can find it. Do not forget to specify the *exact page number*, marginal number, paragraph, footnote etc. in the cited work, since otherwise it will not be possible to verify the citation and the reference misses its function. In legal science and also in legal practice, citations without page references are considered a beginner's mistake that cannot be tolerated even in the first study year. An exception only applies in the - not so rare - cases where you refer to a publication as a whole and only want to point out that someone has published on this subject.

If your text reflects exactly what the cited source says and means, your reference only needs to include the bibliographical data and the page reference. However, this is rarely the case. If the cited passage is only broadly related to your statement, the author holds the same opinion but for different reasons or comes with the same arguments to a different conclusion, you need to *specify the exact context by an addition* at the beginning of the footnote, such as "See with the same position...", "See with a similar reasoning..." or "See on this problem also...". A less precise but common and generally accepted solution is to add "see" or "cf." [for "confer"]. You may even cite someone with the opposite opinion or a different approach, but only with the specification "See for a different opinion..." or "See for a different approach...". Be aware that in many cases references without clarification or specification of the context will be wrong or distorted.

With regard to the huge quantity of references and since the specification of the context makes the references longer, legal papers nowadays provide *references in footnotes, not in brackets in the main text*. Citing practices that are common in political and social sciences are usually unsuitable in the field of legal science.

4) Avoid unnecessary formalism in the footnotes

While page references and specifications of the context are necessary, *do not include bibliographical data which are redundant* for the function of the footnote. You do not need to specify the publishing house and the place of publication if the reader can look up these data in the bibliography, except if there is a special reason or the editors require it to ensure a uniform appearance of his publication. The same applies to the web addresses of internet publications if those are part of a law journal, working paper series or database and can be specified by their issue number. Moreover, you do not need to mention the subtitle of a publication in the footnote if the reader finds it in the bibliography and the title is understandable on its own. Such unnecessary formalism makes the footnotes long and ugly and distracts from their relevant content.

5) Some remarks on the formal style

As for the formal style of citing, until today there is *no generally accepted universal citation style* but a multitude of local styles that combine scientific standards with local conventions and traditions. So *do not confuse the Anglo-American citation styles with global standards!* In continental Europe legal publications usually follow a different, more simple style, even those in English. If there are no binding guidelines of the editors or your supervisor, you are free to chose your own style, as long as the citing is accurate. For example, you may specify the year of publication after the name of the author (as common in Indonesia) or at the end of the reference, before the page reference (as common in Europe). Do not forget, however, that you must follow the *same style of citing in all footnotes*. This also applies to the entries in the bibliography.

Do not follow any specific national style without modifications which ensure that international readers from other countries can understand your references! For example, when citing court decisions, you cannot just follow the specific British OSCOLA standard but must always specify the name of the court at the beginning (even if they do not in Britain) and must not use any specific national abbreviations or formulas without explaining them. When citing German court decisions, you cannot just use the common abbreviations "BVerfGE", "BGHZ", "BGHSt" etc. but must first explain them. Always put yourself into the position of international readers who are not familiar with the local citation styles of this or that country!

XI. A scientific paper's bibliography is a well-structured documentation of scientific sources

Concerning the bibliography, different traditions have evolved in different countries. The bibliography has the function to document the scientific sources used for the work but in many countries it has evolved to an all-inclusive dashboard as a service to the reader. From the scientific perspective, it must list *all cited scientific literature* but no other documents, since they are either irrelevant for the scientific research (as, for example, journalistic reports in the media) or they do not represent the sources but the object of the research (as, for example, laws and regulations). In some countries the bibliography in legal publications is still designed in this scientific way, with the consequence that even legal norms and court decisions are not listed there but in separate tables of legislation and jurisprudence. In most countries, however, a comprehensive bibliography is common, which may not be scientific but is more practical. However, even in this case, there are some aspects to consider:

1) Strictly separate legal literature from other documents

Keep in mind that the *bibliography is primarily about the scientific sources* of your work, that means the legal publications consulted. Do not mix them with any other documents. It is however, irrelevant whether they are published as print or internet edition. Distinguish a category "legal literature" (or "books and articles") from the categories "legal provisions" (or "legislation" or "laws, regulations and international treaties") and "jurisprudence". If you cite a lot of legal literature you may also differentiate more finely at the beginning between "books and other monographies" and "articles and other short contributions" or even a category "theses and dissertations". Finally, if really relevant for your work, you may add a category "political and institutional documents" at the end for soft law and other important documents in the institutionalised political process. From the scientific point of view, non-scientific sources, such as NGO papers, newspaper or magazine articles, media reports or web platforms, should not be listed, but since it has become a common practice in a number of countries you may do so. However, only a selection of particularly relevant non-scientific sources should be listed and only at the very end, clearly separated as "miscellaneous" (or "other documents"). News reports, press releases, announcements on websites etc. may be cited in the footnotes to provide evidence for certain facts but must not be listed in the bibliography.

Be aware that you may need to adapt the wording of the categories to their contents. For example, international treaties do not represent "legislation" and contributions to anthologies not "books" or "journal articles". Treaty bodies under human rights treaties produce "comments and observations" but not "jurisprudence" since they are not courts. "Case law" only exists in countries following the doctrine of precedent (stare decisis). Often you will need to define one or two categories more broadly to avoid mistakes which would not be serious but nevertheless create an unprofessional impression of your work.

2) Provide English translations of the titles and subtitles of publications in other languages

Since your paper in English addresses to an English-speaking readership, the bibliography needs to provide English translations of the titles and subtitles of the publications in other languages, including Bahasa Indonesia. Otherwise, readers who do not understand these languages cannot know what the publications are about. The same applies vice versa if you write in Bahasa Indonesia and work with publications in English. Include the translations of the titles also in the references in the footnotes, since they are helpful to understand the relevance of the source, but refrain from doing so if you cite numerous publications and the footnotes would become unacceptably long. You will not find this standard in the official guidelines but it is self-evident, considering the function of the bibliography. Just think!

The translation is not part of the bibliographical data but a special service you provide to the reader. Therefore, it must not replace the original title or subtitle but be added in brackets. By using square brackets ("[...]") you can indicate that this is an addition.

3) Avoid unnecessary formalism in the bibliography

Excessive formalism, stereotypical wording or too many technical bibliographical data can distract the reader from the essential information and mar the clarity and readability of the bibliography. You cannot avoid this phenomenon but should try to limit it. For example, instead of specifying for every single internet source in a stereotype note when you last accessed it you may insert one general note at the beginning: "Unless noted otherwise, all internet sources have been last accessed on ...". You will need to perform a last check of all cited internet sources in the last days of your work anyway. Another example: You do not need to inform about the particular publication series in which a monography has been published since this information is irrelevant for the scientific work.

It can be questioned if the common practice in common law countries to specify the publishing house of a publication is still appropriate today. The historical reason for it was to allow the interested reader to locate and buy the publication. Is it still necessary in the 21st century where you can find almost any book within seconds at Amazon or other online book stores, in the online catalogues of the major law libraries or in comprehensive online meta catalogues such as the Karlsruhe Virtual Catalogue? At least for legal literature which is still on sale and for well-known works of important scholars which can be found at any well-stocked law library this can be doubted. So from the scientific perspective, if you write about a new problem and cite new literature only for which the bibliographical details can be easily looked up online, you do not need to follow this old custom from the past. However, some editors or supervisors may see it differently.

Long web addresses pose a particular problem. Nowadays, the web addresses of many internet publications are longer than their title. They are ugly and make the bibliography difficult to read. So far no convincing solution has been found for this problem. One option may be to place the web address separately on a new line in a smaller font size. If the cited document has a DOI (Digital Object Identifier, a specially designed persistent address to uniquely identify internet resources), specify the DOI only. It will be shorter. If your text is presented in electronic form you may provide the special service to format the web addresses as links so that the reader can access the sources directly.

XII. Conclusion: *Think!*

This quick guide focuses on how to avoid common shortcomings but is not exhaustive. More intellectual and formal standards will be presented in detail in the course Methodology of Legal Research and Legal Writing. *If you follow the socio-legal approach, its demanding particular standards will apply additionally*. They are not discussed here because this is not a genuine legal but a social sciences approach, which can be used, however, as a complementary approach in legal science (see supra, VIII.). If you follow the complementary approach of the economic analysis of law there will be different additional standards to comply with.

Some highlighted standards may seem unfamiliar and not all can be found in classical guidelines, but they become clear if you consider the purpose of a contribution in legal science and what is necessary to achieve it. Scientific standards, including formal standards, are not an end in themselves but justified by the needs of science, as an indispensable consequence of the underlying principles of science: intellectual authenticity, honesty and originality, consistency and precision, and thoroughness. If you reflect carefully, you can assess yourself what is essential and what is redundant. Is it really a challenge to figure out that a lawyer does not need to explain why he applies legal methodology and studies laws, jurisprudence and legal literature but that page references in footnotes are crucial? Just think!

See also the materials for my larger course contribution to this course in Semester 1, 2022/2023 at www.thomas-schmitz-yogyakarta.id. For any questions, suggestions and criticism please contact me via WhatsApp (+7 775 364 2384), e-mail (tschmit1@thomas-schmitz-eu.de) or Skype (Dr.Thomas.Schmitz).