

# Bhutan National Legal Institute



## RESEARCH GUIDELINE

Leading Legal Education for a free, fair and just society

August 2024

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## Bhutan National Legal Institute

### BACKGROUND

The Bhutan National Legal Institute (*Institute*) is a premier national training Institute with a primary mandate to provide continuing legal education and training to the Judicial Service Personnel. The Institute conducts case studies and research on emerging legal issues. The Institute started Bhutan's first Law Journal in 2013 called the '*Bhutan Law Review*', a bi-annual legal publication to foster a legal profession enriched in literature, philosophy, analysis, and academic proficiency. The *Bhutan Law Review* is a progressive platform for legal educational and scholarly literature, reflecting a commitment to refining legal craftsmanship and upholding academic rigor.

Despite the Institute's proactive involvement in legal research, there has been a notable absence of a properly documented methodological system and guidelines on legal research and case studies. This Guideline is adopted to ensure a systematic, uniform, and standardized approach to legal research. It will provide a comprehensive tool for the lawyers in the Institute to navigate the legal research process effectively.

This Guideline is intended exclusively for use within the Institute, ensuring uniformity in format and structure to establish a consistent and practical approach to legal research.

### SUBJECT MATTERS OF LEGAL RESEARCH

Legal research encompasses a broad spectrum of subject matters, reflecting the diverse and dynamic nature of the legal field. Aligned with the Institute's mandate to conduct periodic legal research on emerging legal issues, the legal research conducted by the Institute shall encompass pressing legal issues that address the changing legal scenarios and are relevant to the current development of our legal system. It is expected to cater to the complexities of the legal system and its intersection with various aspects of society and governance.

#### I. LEGAL RESEARCH METHODOLOGY

The research methodology will vary depending on the nature and kind of legal issues under study.

##### A. Quantitative Method

- This method attempts to collect quantifiable information for statistical analysis.
- It allows the researcher to collect and describe the nature of the demographic segment using sampling methods like online surveys, opinion polls, questionnaires, etc., the results of which can be depicted in numerical form.

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**B. Qualitative Method**

- It is a subjective form of research that helps generate hypotheses and further investigate and understand quantitative data relying on the analysis of controlled observations of the researcher, such as participants' experiences, perceptions, and behaviour.

**1. Steps to conduct qualitative/quantitative research**

**Step 1:** Determine the relevant data collection techniques such as interviews, survey questionnaires, focus groups, a document study, and observation.

**Step 2:** Framing questions for the interview and survey unstructured with open-ended questions to allow the participants to explain their experiences, attitudes, and behaviors, or structured interviews with predetermined questions for each participant. For sensitive topics requiring in-depth exploration, one-on-one interviews are appropriate.

**Step 3:** Analyze the data by interpreting, examining, reviewing, organizing, etc., to develop insights and conclusions that answer the research question.

**C. Mixed Method**

- It shall include a combination of qualitative and quantitative methods.

**D. Analytical Method**

- Analytical Legal Research is a style of qualitative inquiry. It is a specific type of research that involves critical thinking skills and the evaluation of facts and information relative to the research being conducted.

Regardless of the methodology chosen, it is crucial for the researcher to clearly define the research topic, ensuring it aligns with the Institute's objectives and addresses emerging legal issues. Subsequently, the following steps can be applied uniformly:

*Step 1: Identify and articulate the research questions*

**a) Aspect of the Research Question**

- A clear statement of the problem and the reason for studying or researching.
- Clearly define the legal issue or what the researcher needs to do.
- Break down the question into key elements/concepts.
- Have an appropriate scope (not too broad or too narrow).
- It must be feasible with ample access to quality research materials.
- It must be analytical, which means producing an analysis of an issue or a problem.

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- It should be pertinent and timely.
- It must offer distinct advantages.
- It must be feasible within a defined timeframe.

Step 2: *Categorize the research questions and identify the gaps the research intends to study*

Step 3: *Find appropriate background resources*

- Find an overview of the legal issues connected with the research question. You may obtain background information from books or articles.
- After reviewing the background resources, you should reference the laws and relevant case laws. Ensure that the cases are pertinent to the research question.

Step 4: *Determine the appropriate research methodology.*

- Define the methodology's scope, objectives, and the type of data or legal sources to be analyzed.

Step 5: *Analyze, interpret, and evaluate the collected data.*

- Apply legal reasoning, statutory interpretation, and case law analysis to derive meaningful conclusions.
- If required, conduct a comparative legal analysis to provide broader perspectives.
- Highlight key legal insights, trends, and any implications for the legal field.

Step 6: *Provide well-founded recommendations based on the research findings.*

- Communicate the results clearly and concisely.

## II. LITERATURE REVIEW

- Conducting a comprehensive literature review helps understand existing legal scholarship, identify gaps in knowledge, and build a foundation for the research.
- Explore the relevant legal databases, journals, and publications using the Institute's available information repository.
- Desk review of existing literature (Process followed in other jurisdictions)

### A. Tips on doing a critical literature review

- Finding usable literature
- Review the literature, taking a holistic approach to provide an overview of what the literature says.

### **III. LEGAL DATABASES AND RESOURCES**

Explore legal databases, libraries, and online resources. Utilize platforms that provide access to statutes, case laws, regulations, legal journals, and other sources.

- **Primary Sources:** Statutes, case laws, and other documents
- **Secondary Sources:** Legal treatises, commentaries, and law review articles. These sources provide in-depth analysis and interpretation of legal principles.
- **Online Research Tools:** Explore online sources that provide information on your research topic. Some of the common online sources are HeinOnline, Jstor, ResearchGate, LexisNexis, in addition to other reliable sources.

### **IV. STRUCTURE OF THE RESEARCH**

#### **A. LEGAL RESEARCH: A BASIC STRUCTURE**

##### **1. Research topic/title**

- Choose a research topic that is not only sensibly arranged but also appropriately expressed so that the readers have an overview of the research.

##### **2. Abstract**

- It shall include a summary of the paper, including the purpose, main findings, and any implications or conclusions.

##### **3. Literature Review**

- Assessment of the sources in a chosen topic of research.
- A robust literature review goes beyond summarizing sources; it critically analyzes the field's current state, providing a scholarly framework for your research and showcasing its relevance within the broader context of the discipline.
  1. Clarify the aim of your literature review.
  2. Conduct a thorough exploration.
  3. Assess and choose pertinent literature.
  4. Delve into critical analysis.
  5. Organize the framework of your review.
  6. Articulate your literature review thoughtfully.

##### **4. Introduction**

- The researcher must clearly explain the aims and objectives in the introduction.

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- The introduction must also give a concise and appropriate background for the study, along with the significance and scope of the research.
- Explicitly state the **research questions** you aim to address.

### 5. Body

- This will vary depending on the content of the research. However, it must explain, analyze, and conclude the research question.

### 6. Conclusion and Recommendations

- These include summarizing results, mentioning the aspects that should be addressed in more detail, or pointing the way for further research.

### 7. References / Bibliography

## B. CASE STUDY

### 1. Case Brief/ Case Overview

Briefly explain the facts of the case as discussed in the different levels of the courts with a focus on the following:

#### a. Facts

- Briefly describe the background of the case and the procedural history of the case.
- It is important to include only the essential background information that explains what event/incident led to the legal case.
- In the facts, do not argue or editorialize.

#### b. Issue

- Identify the main issues in the case. A problem is the specific legal question that the Court deliberates on.

#### c. Rule, Decision, and Rationale

- This section shall summarize how and why the court reached its decision.
- It should contain a detailed explanation of the legal reasoning of the case given by the Court in their decision, the interpretation, and the application of the existing laws.
- If there are majority and minority judgments, it is necessary to explain these separately.



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### 2. Analysis and Findings

- Engage in a thorough legal analysis of the case.
- Apply relevant legal principles, statutes, and other precedents to interpret and evaluate the legal issues.
- Conduct comparative analysis where appropriate.
- Address challenges, controversies, or conflicting case interpretations, exploring different perspectives and legal databases.
- Lay down the importance and implication of the case if the particular case changed the law in a significant way.
- Study trends, if applicable; Consistency and predictability in the decisions by different courts on the same subject matter.
- Time taken to dispose of the case

### 3. Template for Case Study

| Details of the Case                 |  |
|-------------------------------------|--|
| Title of the Case                   |  |
| Jurisdiction                        |  |
| Judge/ Justice                      |  |
| Dealing Bench Clerk/Court Registrar |  |
| Date of Registration                |  |
| Date of Decision                    |  |
| Judgment Number                     |  |
| Time taken (reasons)                |  |
| Decision                            |  |
| Other remarks                       |  |

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### **4. Recommendation**

- Summarize the key findings and conclusions drawn from the case.
- Offer evidence-based suggestions based on the analysis, incorporating solutions, reforms, or considerations for future progress, where applicable.

### **5. References**

## **V. SYSTEM OF REVIEW**

### **A. Group Research**

- The Institute encourages lawyers to work in groups of two to three persons.
- It must establish a system for lawyers to discuss their ongoing work and share insights. This would ensure that all lawyers know all research assignments taken individually or collectively in the Institute.
- It also serves as a platform to discuss challenges faced, progress made, and new insights gained, ultimately fostering a culture of continuous learning within the organization.
- The team could allocate a specific time for brainstorming sessions where lawyers can suggest and discuss potential research topics and issues.

### **B. Peer Review**

- Before finalizing the research subject, researchers need to thoroughly review the research through peer review to gather feedback and enhance the robustness and credibility of the study.
- The lawyer working on a particular topic or case shall present the progress of his/her work and open the platform to share insights and provide constructive feedback.
- It is also to correct any grammatical errors and ensure the document follows the appropriate writing style.

### **C. Establishment of an Editorial Board**

For all publications within the institution's publishing series, an editorial board shall be established.

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**The Structure of the Editorial Board**

The editorial board shall comprise no fewer than three (3) editors, including:

- 1) One (1) editor in chief
- 2) Two (2) other editors

**Selection Procedures for Editorial Board Members**

- 1) **Determine Areas of Expertise:** The main focus of the research should be to impanel specialists to review work in that field.
- 2) **Academic Qualifications:** Candidates should possess a strong academic background, including a substantial number of publications in reputable journals.
- 3) **Professional Experience:** An applicant's prior legal practice, policy-making, or other pertinent professional experience that complements their academic background should be considered.
- 4) **Editorial Experience:** Preference may be given to those with prior experience in academic publication management, peer review, or editorial positions.

**Term of Service**

- 1) For regular publications, Editorial Board members will serve a three-year term.
- 2) For theme-based or conference-related publications, editors may be appointed for a short term, specifically for the duration of the project, based on their relevant expertise.

**Editorial Board Responsibilities**

To maintain scholarly standards and integrity of legal research publications, the editorial boards are responsible for:

- 1) **Manuscript Review and Evaluation:** For all submitted manuscripts, it is important that the board has to undertake a proper peer review process. Every manuscript is reviewed according to its novelty and importance, correctness of facts and conclusions, and significance for the development of legal science. Appropriate academic methods when devising research questions, sound legal examination, and reference to reliable data and conclusions should be guaranteed by the board.

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- 2) **Providing Constructive Feedback:** To help the authors improve the quality of their work, the board may use concise and comprehensive feedback. This feedback may include suggestions as to how the conceptualization of the arguments can be made clearer; how the structure of the sections can be enhanced; how the legal analysis can be enhanced; and how the references used can be better aligned with the text. Before acceptance to continue with the publication, the authority board may recommend improvements to the work.
- 3) **Ensuring Ethical Standards:** The board ensures that all publications contain no issues of ethical misconduct such as issues to do with citation, plagiarism, and respect for intellectual property. The board should conduct such verification for the ethical clearances necessary in the case of human subjects or sensitive data.
- 4) **Maintaining Transparency and Accountability:** They also take full responsibility in the documentation of the reviews process and shall make sure that there are no conflicts of interest. Special interest Board members are required to state their conflict of interest and then exclude themselves from any manuscripts in which the conflict exists.

**D. Ethics Committee**

The editorial board member will serve as a member of the ethics committee to grant ethical clearance.

**Ethical Clearance Process**

The Ethical Clearance process is essential as it ensures that the work done especially in legal research is done ethically. The process typically involves the following stages:

1. **Submission of an Ethical Clearance Application:** Researchers must submit an application to an Institutional Review Board or Ethics Committee before commencing their study. The proposal of this application should comprise the specific aims and objectives of the research, and the methods to be used in the research; the process of enlisting the participants; procedures for data collection and analyses and how and when aspects of ethics will be dealt with.

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2. **Review by the Ethics Committee:** The Ethics Committee scrutinizes the application referring to possible ethical problems in practice. These are possible risks and benefits to participants, participants' rights and how their identity will be protected, obtaining informed participants' consent, ways of dealing with identifiable data.
3. **Approval or Request for Modifications:** The Ethics Committee may approve the proposal or may ask for changes to be made or fully disapprove it. Where changes are required, researchers are required to correct their proposal to answer to the concerns of the committee and then submit for reconsideration.
4. **Ongoing Monitoring:** If the Ethics Committee gives approval, the Ethics Committee may also supervise the research with a view to ensuring that it has complied with the approved ethical standards. Often the researcher is asked to submit periodic reports of progress and inform the committee of some changes that have been made in the conduct of the research.
5. **Final Report Submission:** The final report should be prepared by the researchers and submitted to the Ethics Committee to endorse that the study planned and implemented used the approved ethical standards.

#### E. Submission to Director General

- After thorough peer review, the team will submit the work to the Director General for final approval.

## VI. GENERAL GUIDELINE

### A. The Mechanics of Writing

#### 1. Writing style

- Alphanumeric is the most common outline format, with main topics listed as Roman numerals, subtopics as alphabetic capital, specific points for each subtopic as Arabic numerals, and details for individual points as lowercase letters.

#### a) Example of Alphanumeric Research Paper Outline

- I. Michael Jordan
  - A. Career Highlights
    1. Six NBA Championships
      - a. Six NBA Finals MVP

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- Legal research often requires a clear and precise writing style to effectively communicate ideas and minimize ambiguity.
- Avoid the use of hyperbole, inflammatory rhetoric, or personal attacks.

### 2. Formatting

- Line spacing should be 1.15.
- Font size should be 'Times New Roman 12'
- The size of the fonts used in citations and references should be 'Times New Roman 10'.
- Write the title of the research paper in bold capital letters. Use small bold letters for headings and subheadings. Set the font size of the title and headings to 14, and for subheadings to 13.
- The margins should be standard (top and bottom at least 3 cm, left and right margins at least 2 cm).
- Number all pages in the lower right-hand corner, including the title and reference pages.
- In-text citations should include the author's last name and year of publication (e.g., Needup, 2023).
- The font size for the Abstract should be 10.
- The font size of the Keywords shall be 12, with the word '***Keywords:***' in small bold and italicized, followed by a colon.

### 3. Grammar, Punctuation, and Spelling

- Flaws in the technical areas of grammar, such as awkward sentence construction, incorrect punctuation, and spelling errors, distract readers from the intended message and make them doubt the researcher's abilities.
- Punctuation should be uniform throughout the article to maintain consistency.
- Use a single quotation mark, except for quotations within quotations.
- Use ellipses (...) to indicate omitted words from a quote and brackets ([...]) to indicate added words.

### 4. Capitalization

- There should be adequate capitalization of words and phrases (E.g., Royal Address, Royal *Kidu*, Rule of Law). This ensures the essential requirement to depict the importance and relevance of the words and phrases.

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**5. Abbreviations, Contractions, Acronyms, and Initials**

- When introducing an abbreviation, contraction, acronym, or initials, spell it out ultimately, followed by the abbreviation in parentheses. For example, “World Health Organization (WHO)”.
- Consider including a table of abbreviations in the beginning for quick reference.
- Contractions such as “can't,” “won't,” or “didn't” are generally too informal for academic writing. Instead, use the complete form (e.g., “cannot,” “will not,” “did not”).

**6. Non-English Words**

- Translate the term and include it in parentheses when non-English terms are used -for example, *chang* (alcohol) or *tertön* (treasure revealers). Italicize the non-English term in each instance throughout the document.
- Terms generally adopted in English (e.g., guru, karma) need not be italicized.
- You should italicize Dzongkha terms generally accepted and repeatedly used (e.g., *Dzongkhag*, *Gewog*, *Tshechu*, *Poenlop*) in the first instance and use them without italicizing in all future instances.

**7. Italicization**

- To ensure that the research abides by scholastic approaches, academic standards, and uniform standards of italicization of the words and phrases, the following, but not limited to, can be italicized;
  - The names of the laws, rules, and regulations;
  - Quotations and names of cases;
  - Important legal and other words, to give prominence;
  - Names/titles of the books, journals, and other publications;
  - Words other than English language;
  - Words requiring special emphasis; and
  - Italicize as required by academic principles and guidelines.

**8. References and Footnotes**

Any research requires the researcher to provide proper citations and use quotation marks to locate the source. A lack of adequate referencing to other people’s work will lead to plagiarism, which includes one of the following:

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- Using copied material without enclosing that material in quotation marks and without appropriately acknowledging its source;
- Paraphrasing or summarizing too close to the original wording;
- Borrowing, selling, purchasing, or lending academic work for submission for academic credit.
- Properly cite legal authorities, cases, statutes, and other legal sources according to the citation style required. Consistent and accurate citations lend credibility to your research.
- While making a statement of fact, an in-text citation must be provided with an accompanying complete reference in the References Section.

### 9. Tables, Graphs, and Pictures

- Tables, graphs, pictures, and illustrations are accepted as per the nature of the research.
- Ensure that any visual elements included directly contribute to understanding the legal issue discussed.

### 10. Role of the Researcher

As a researcher taking up any topic for research, it is their duty to:

- Have original authorships, legal thoughts, and analysis;
- Abide by principles of academic pursuit without plagiarism; and
- Promote standardized academic and other writing disciplines and foster a “privileged academic pursuit.”

### B. Publication

- The institute shall put in place an annual internal publication of the research, consisting of the research and case studies conducted by the Institute.
- Uniformity in design should be maintained.

## VII. BASIC ETHICAL PRINCIPLES OF RESEARCH

### A. Respect for persons:

Individuals should *independently* express their opinions and the researchers (Institute) should provide them with *special protection* if they are not autonomous. It is important to consider the free consent of an individual to participate in research.



**B. Beneficence:**

The probable benefits must exceed the expected harm. Maximizing the benefits and minimizing the harm of a research study is necessary. Therefore, the researcher/institute must carry out a risk assessment.

**C. Justice:**

It requires *fairness in the distribution of burdens and benefits*. In line with egalitarianism, it is important to treat persons of similar circumstances or characteristics similarly. The selection of subjects should be equitable and representative of the group intended to benefit from the research.

**D. Code of Conduct for Research Integrity**

Good research practices are based on fundamental principles of research integrity. They guide individuals, institutions, and organizations in their work as well as in their engagement with the practical, ethical, and intellectual challenges inherent in research.

1. **Reliability** in ensuring the quality of research reflected in the design, methodology, analysis, and use of resources.
2. **Honesty** in developing, undertaking, reviewing, reporting, and communicating research in a transparent, fair, complete, and unbiased way.
3. **Respect** for colleagues, research participants, research subjects, society, legal systems, ecosystems, cultural heritage, and the environment.
4. **Accountability** for the research from idea to publication, for its management and organization, for training, supervision, and mentoring, and its broader societal impacts.

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### **Conclusion**

This research guide provides a comprehensive framework for legal research, specifically tailored to align with the principles and standards of the Bhutan National Legal Institute (BNLI). It aims to standardize and elevate the quality and credibility of the Institute's research output. By outlining various methodological approaches, ethical expectations, and the specific steps involved in the research process, this guideline equips researchers with the tools to conduct rigorous and effective legal research.

The formation of an Editorial Board and the emphasis on peer review contribute to the credibility and validity of the research. Notably, studies conducted by researchers must adhere to specific criteria, particularly in the treatment of human subjects. To foster organizational collaboration and strengthen the Institute's review system, group studies and peer assessments are also utilized.

In essence, this guideline ensures that all research conducted under the BNLI is consistent and aligns with the Institute's mission to contribute to the legal body of knowledge for the benefit of the legal community. As the Institute continues to grow as a key resource, these guidelines will help ensure that its research meets academic standards while also serving the broader interests of society.

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