

SOUTH AFRICAN LAW REFORM COMMISSION
Legal Essay Writing
COMPETITION

Honouring the legacy of the late Chief Justice Pius Langa

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JOURNEY IN THE FOOTSTEPS



Rewarding
 original
 thinking
 in law reform

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R70 000

to be won by
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 legal achievers destined to shape
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 A GUIDE TO LEGAL ESSAY WRITING

SOUTH AFRICAN LAW REFORM COMMISSION
Legal Essay Writing
COMPETITION

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Honouring the legacy of the late Chief Justice Pius Langa

JOURNEY IN THE FOOTSTEPS

The South African Law Reform Commission (SALRC) is engaging young legal minds in generating innovative ideas on issues of law reform. Guided by the wish to honour a range of South African legal achievers, the SALRC is relaunching the legal essay writing competition originally named in honour of the first Chief Justice of the democratic era, Justice Ismail Mahomed. From 2018, the renamed South African Law Reform Legal Writing Competition will celebrate the contributions of legal luminaries who have dedicated their lives to the advancement of our constitutional democracy.

The current season is dedicated to the memory of the late **Chief Justice Pius Nkomo Langa** who served South Africa with dignity and distinction. After obtaining B.Juris and LLB degrees from the University of South Africa, Pius Langa started his career as a Messenger of the Court, became a Court Interpreter and then later a Magistrate. He was admitted as an Advocate of the Supreme Court of South Africa in 1977. His commitment to justice and the law saw him championing many human rights causes.

Justice Langa was one of the first judges appointed to the Constitutional Court of South Africa and played a crucial role in drafting the current Constitution. He became the Constitutional Court's Deputy President and in November 2001, Deputy Chief Justice of South Africa. In 2005 Justice Langa became Chief Justice and Head of the Constitutional Court until he retired in 2009. Justice Langa's legacy of legal excellence continues to shine as a beacon for future generations of South African legal scholars, practitioners and jurists.

Rewarding original thinking in law reform - Prizes worth R70 000 to be won by LLB & LLM students

#SALRCessayCompetition @SALRC_Comp

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**South African Law Reform Commission**

**JUTA**

WRITER'S UNBLOCK

A Guide to Legal Essay Writing

WRITER'S UNBLOCK

**A Guide to Legal
Essay Writing**

Prepared by the South African Law Reform Commission
for their Essay Competition in partnership
with Juta and Company (Pty) Ltd



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ICON KEY



Example



Keypoints

INTRODUCTION

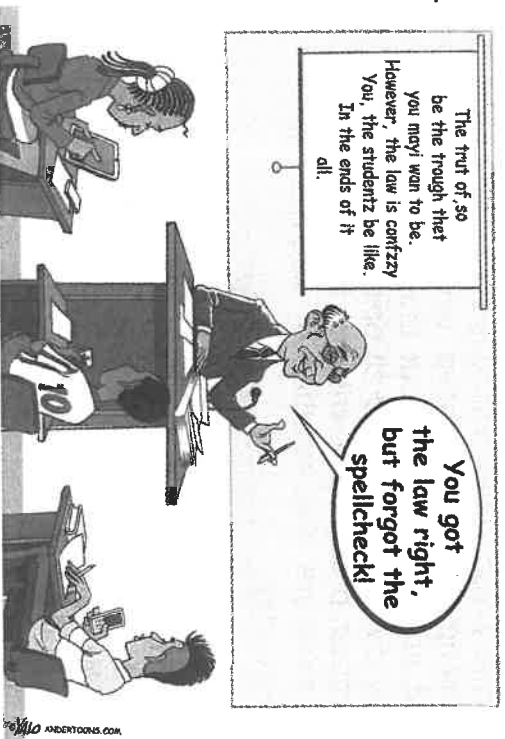
Legal writing takes one of two forms: instrumental or critical. Instrumental legal writing refers to routine documents such as pleadings, wills and contracts. It also includes everyday documentation such as office memos in a legal practice. By contrast, critical legal writing is innovative and generates new ideas in a field of law.

In many disciplines, writing is either interpretative or prescriptive. Interpretative writing presents facts and an explanation about those facts. The writer may give examples and an opinion on the topic. By contrast, prescriptive writing is instructional (eg how to measure the weather or cultivate cells in a laboratory).

Legal scholarship differs from interpretative and prescriptive writing. A good legal paper points the way to a specific goal, and its organisation is clear and logical. This type of legal writing should present new and original ideas.

The Law Reform Essay Competition focuses on critical legal writing. One of the Competition's aims is to generate new ideas that may promote law reform. Essays do not need to make direct sugges-

tions for reforming the law by including draft bills or draft provisions, and your topic does not have to be directly concerned with law reform. You can write on any aspect of the law. However, you need to show depth of insight and the ability to reflect critically on the law. We encourage you to make constructive and original comments and suggestions. Articulate any problems or strengths you perceive in the law as it applies to your chosen topic.



SECTIONS OF AN ESSAY

All academic essays should have three main sections: introduction, main body, and conclusion. Legal essays should follow this pattern. However, the way you structure the body of the text is up to you.

The introduction

In the introduction you tell the reader what your essay is about in a way that gets their attention. Outline your topic and give the reader an idea of your research question or the problem you will be addressing (see pages 10–14).



Your introduction might start like this:

HIV/AIDS has had a devastating effect on the lives of many South Africans. Despite the nation's constitutional commitment to equality, there are many examples of people being discriminated against in the workplace because they disclose their HIV status. This essay explores ways in which such discrimination can be reduced through legislative intervention.

Your introduction tells the reader—

- *your research topic*: HIV/AIDS in the workplace
- *your research question*: Should new laws be implemented to address HIV-based discrimination in the workplace?

When you start writing your essay, start with an opening section (eg 'Introduction' or 'Background'). You may include a brief description of your position, but remember to keep the focus on the law.

The introduction should give the reader an idea of what direction the paper will follow. Key issues can be mentioned but should not be discussed in detail; this will happen in the main body of the paper. Any definitions that are needed (eg for non-English words) should be included in the introduction, under the subheading 'Definitions'.

The main body

The opening paragraphs of the body of your essay should include background information or an outline (description) of the problem, if this did not appear in the introduction. Orient the reader to the topic and identify facts related to the problem you want to discuss. After presenting the facts, move into an analysis of them. For the legal analysis, you may want to use the 'IRAC' formulation as described on page 15 of these guidelines.

If your essay focuses on law reform, there are two main sections to include in the body of your text. The first is the case for law reform, and the second is your suggestions for law reform. You can use these terms as subheadings or they might simply guide your ideas. Make use of appropriate subheadings. For example, if you discuss a specific law you can use its name as a subheading.

The conclusion

The conclusion should summarise your argument and recommendations. Alternatively, it may refer back to the research problem and provide an answer to it.

Do not introduce any new ideas that have not been dealt with in the main body of the essay.

Inexperienced writers often treat the conclusion as a place to develop a new argument or line of reasoning. Do not do this. The conclusion should summarise the main points of the paper and highlight your final suggestions. The conclusion should leave the reader with a clear impression of your overall argument and recommendations.

Word count

It is helpful, when planning an essay, to allocate a rough word count to each section. During the rewriting and polishing process, pay attention to these word counts to see that the sections are well balanced and that you do not exceed the word limit.

Essays for the Law Reform Essay Competition must be between 4 000 and 6 000 words each. This word limit *includes* footnotes, titles and subheadings, and quotes.

It is up to you how to structure the sections of your essays in terms of word count. As a rough guide, the introduction typically takes up about 6% of the word count, and the conclusion takes up another 6% or so. That leaves roughly 88% of the word count for the main body.

Using the above percentages, if your whole essay is 4 000 words long then a good length for the introduction is roughly 250 words. The conclusion should also be roughly 250 words. This leaves you with about 3 500 words for the body of your essay. If you include a direct quote (eg at the start of your paper or midway through), it might take up perhaps 90 words, which would leave you with 3 410 words to play with, including footnotes and subheadings.

Similarly, if your total word count is 6 000, the introduction could be 360 words and the conclusion another 360. The main body could then be 5 280 words long. (Note: these figures are suggestions rather than a strict guide for actual word lengths.)

It is essential to use subheadings in the main body of your text. Divide up your argument or ideas under short, descriptive subheadings. Some sections might be as short as 200 words but others might be as long as 500 or even 800 words.

PROCESS AND PRODUCTS

Writing has two dimensions. One is the writing *process* and the other is the *product* you create.

'Process' means action and activity: thinking, writing, revising, rewriting and researching. The writer creates the work. By contrast, the final product is separate from the author. It must stand alone after the writer has finished the act of creating.

Revising and polishing your essay is extremely important. Good authors revise their work at least two or three times. The most common error that inexperienced writers make is being unwilling to critically examine and improve their own work. Revise your essay several times before submitting it. If you think it is perfect, 'sleep on it' and look at it again critically the next day. However, balance is needed. At some point you have to stop adding or deleting words and moving text around.

Once your essay is polished, it can be submitted to the Competition or your lecturer. The guidelines below describe both the *process* of writing your essay and how to perfect the final *product*.

The Process

Key elements in essay writing

There are various ways of approaching an essay. The outlines given here are intended for students entering the Ismail Mahomed Competition. It is also hoped that this guide will help students to feel more confident in legal writing generally. The 'Stylistic Matters' section is based on conventions used in the *South African Law Journal (SALJ)*, as described in the *SALJ House Style: Editors' Guide*.*

The following are key elements in writing an essay:

- (1) Identifying the topic;
- (2) Developing a thesis statement or research question;
- (3) Doing the research;
- (4) Providing a legal analysis;
- (5) Checking references and citation; and
- (6) Writing a summary or conclusion.

Note that these are *not* subheadings or sections of the actual essay. The steps are simply outlined here to help you in the writing process.

* A copy of the *SALJ House Style: Editors' Guide* is obtainable from www.jutalaw.co.za, but the main points appear in these guidelines (pages 28-47).

Identifying the topic

Although it may seem that there is little scope for original writing, there is always a need to look at unresolved areas of law. You can look at—

- disputes about the law; or
- disputes about the direction that the law is taking.

Disputes about the law require an evaluation of conflicting interpretations of the law or conflicting areas of authority. By contrast, *disputes about the direction* of the law require an examination of whether a new law should be promulgated, or whether the existing law should be amended to cater for a new situation.

Choosing a topic often begins with conversations to determine what issues are 'out there'. Identify a subject that will allow you to present original and useful ideas. You probably will not use your topic as the exact title of your essay, but be clear in your mind what the topic is.

Topic

HIV/AIDS in the workplace.

In this example, you chose the topic 'HIV/AIDS in the workplace'. This is a very broad description of your area of interest. It is too vague to be a good title

for an essay and will probably not even make a useful subheading. Simply write the topic down for yourself.

A lot of research might be needed before you finally settle on a topic worth writing about.

Research question or thesis statement

Once you have identified your topic, narrow it down into *either* a research question *or* a thesis statement. These two are related but they are not identical.

A *thesis statement* presents an idea or theory about a relationship or phenomenon. A *thesis statement ends with a full stop*.

Thesis statements

- HIV/AIDS contributes to discrimination in the workplace.
- The laws that address the impact of HIV/AIDS in the workplace are inadequate.

Note that the focus here is more specific than the general topic of 'HIV in the workplace.' In the first example, a relationship between two things is suggested: 1) HIV/AIDS; and 2) discrimination in the workplace.

A *research question* is basically the same as a thesis statement but is phrased as a question. *It must end with a question-mark*.

Research questions

- Does HIV/AIDS contribute to discrimination in the workplace?
- Are the laws that address the impact of HIV/AIDS in the workplace adequate?

Note the open-ended nature of this wording, in contrast to the thesis statement. In the first example, the same relationship is suggested as in the thesis statement: a relationship between 1) HIV/AIDS; and 2) discrimination in the workplace. However, here you are not stating the relationship as 'fact'. You are identifying it as an area that needs to be studied.

Most essays include only one research question or one topic statement, because of the word limit.


The choice of whether to use a thesis statement or research question depends on the way you view your topic. Perhaps you feel sure that HIV status contributes to discrimination in the workplace. You have read many articles or case studies that suggest this. You would then develop a thesis statement rather than a research question, and your essay would need to show why your thesis

statement is true (eg *how* or *why* HIV status contributes to discrimination in the workplace). Cite relevant case law or legislation to support your argument.

If your opinion is more tentative or the topic is very complex and you can see the validity of more than one viewpoint, use a research question rather than a thesis statement. This will allow you to explore the topic in your essay without being dogmatic or pre-emptive in your approach.

Research questions are good for explorative studies. Explorative studies are important because they open up topics for discussion and debate. Nonetheless, by the end of the paper you should be able to identify one or more possible answers to your research question.

If your essay starts with a research question, by the end of it you should draw some conclusions that resemble thesis statements.

 There are inadequate laws to address the impact of HIV/AIDS in the workplace. Government needs to implement laws to address the problems created by the scourge in the workplace.

Note that your thesis statement or research topic should refer directly to law. If your research question was *'Are people with HIV/AIDS discriminated against in the workplace?'* you might need to study material from the social and medical sciences to answer. Such research is unsuitable for a legal essay.

Legal research does at times include material from the social and medical sciences, and such input is crucial when developing policies or interventions. But the scientific disciplines have their own academic requirements, which legal scholars are not trained to observe. In addition, questions may arise about the legal validity of material from non-legal fields (eg is it hearsay evidence or does it carry legal authority?). If you want to include general statistics such as unemployment figures or rates of HIV infection among population groups, that is fine. Be cautious about using non-legal material that is more complex or interpretative than this. Multi-disciplinary projects require professionals from various fields to work together to integrate their respective knowledge.

For the Law Reform Essay Competition, students are encouraged to work alone and not to include non-legal research material.

The way you word your thesis statement or research question will determine how you need to

approach your topic, so think carefully. The list on the next page shows further possibilities for research questions.

Research questions

- How does the law prevent discrimination based on HIV status in the workplace?
- Does the law contribute to discrimination based on HIV status in the workplace?
- Are laws on HIV-based discrimination in the workplace being well implemented?
- Should government implement new laws to address the problem of HIV-based discrimination in the workplace?
- If the law contributes to HIV-based discrimination, what law reform is needed?

Doing the research

Reading and thinking are crucial steps in developing your essay. A lot of time may go on planning before you start to write. Legal writers should identify sources to draw on and then consult those sources. Also identify any other commentary on the topic.

The sources to look at can be classified as either primary or secondary:


Primary sources

- These are:
- statutes,
 - cases,
 - treaties, and
 - government documents.

Secondary sources

- These are:
- scholarly works
 - journal articles,
 - statistics and other data,
 - newspaper and internet news items, and
 - other material relevant to your essay.

Each source must be shown in a footnote.

-  Do not include a bibliography or source list at the end of your essay; all references must be given in the footnotes.

Failure to acknowledge a source constitutes plagiarism. See pages 33 to 45 for guidelines on referencing.

Providing a legal analysis

For your legal analysis, you may want to use the 'IRAC' formulation, as follows:

- Issue (what is the problem?)
- Rule (what the law says on the topic)

- Analysis (do the facts violate the rule, or not?)
- Conclusion (the recommendation)

Plan your essay before you start writing it. Drawing mind-maps and flow charts can be helpful in the planning stage because they allow you to jot down ideas without organising them logically.

Once you start writing, you may find that everything comes out in a jumble or your text is far too long. Don't worry about this: you will be able to revise it later. Get everything down in writing so you have something to work with.

Do not try to edit as you go!

Only start revising your text once you have finished writing the first draft. Pay attention to the word count of each section. Detailed guidance is given on pages 5–6 of this booklet.

If you are writing specifically about law reform, the structure might look something like this:*

- I INTRODUCTION
- II BACKGROUND
 - The South African context
 - The Constitution
 - Act XYZ of 1890
- III THE CASE FOR LAW REFORM
 - Recent case law
 - Reform in other jurisdictions
- IV SUGGESTIONS FOR LAW REFORM
- CONCLUSION

However, any standard structure for legal essays is acceptable for the Law Reform Essay Competition. Your essay might also look something like this:

- I INTRODUCTION
- II BACKGROUND
- III LEGAL ANALYSIS
 - International law
 - Domestic law
 - o Act 1
 - o Act 2

* Note these are hypothetical examples only.

- Case law
 - o Case 1
 - o Case 2

IV RECOMMENDATIONS (or CONCLUSION)

In your legal analysis, use plain language rather than 'legalese' (legal jargon). Choose simple and short sentences and words over long and complicated ones. Imagine that your reader is a well-educated person who does not hold a law degree but works in a related field and needs to know more about the relevant laws (eg a social worker, a school principal, or a policy-maker).

Here are other points to look out for:

- (1) Can you improve the logical flow of your argument? Sentences should flow logically from one to the next, and so should paragraphs. Use paragraphs to cluster related ideas together.
- (2) Use the copy-and-paste function to move sentences and paragraphs around to improve the flow if necessary.
- (3) Have you repeated any ideas or arguments? In the conclusion of the essay, you will be able to emphasise the key points. Do not repeat anything in the main body of the text.

- (4) Have you accidentally left out words in a sentence? Have you crammed too many words and ideas into a sentence? Each sentence should contain only one main idea, and should be roughly 20 to 25 words long.*
- (5) Have you used punctuation adequately? Pay careful attention to quote marks and brackets. Always make sure that an opening bracket or quote mark is followed by a closing one.
- (6) Are the subheadings short and informative?
- (7) Have you included all the important points you noted in your plan?

Summary or conclusion

Write your conclusion only after revising the body of the essay. Go through everything again and note the main arguments and key points that you made. The highlighter function on your computer is useful for this task.

Writing a conclusion is relatively easy because you do not need to include new material. You need only summarise what your essay has said, and empha-

* Legislative wording may require longer sentences.

size the key points. Alternatively, if your essay opened with a research question and you have not yet answered it definitively, do so in the conclusion.

Readers form both *first impressions* and *last impressions*. Your conclusion will give the reader a last impression, which may also be a *lasting* impression. In other words, it may determine how the reader remembers your entire essay.

Citations

While you are busy writing, make a note of all sources you consult and summarise their key points. Legal writing has specific stylistic conventions, and students should follow the style set out by their law school. Independent authors may follow the style prescribed by a relevant publication.

The Law Reform Essay Competition is run in conjunction with Juta, and the style guide for the *SALJ* is cited here unless otherwise stated (see page 28—47). Extracts from the style guide appear with Juta's permission. Entries to the Competition should follow either the relevant faculty (law school) style or the *SALJ* style.

Stylistic requirements that should be kept in mind while you are writing relate to spelling and grammar, a balance between plain language and legal terminology, and proper referencing and methods of citation.

When you are ready to review the stylistic aspects of your paper, your focus should shift from the *process* of writing to that of perfecting the final *product*.

The Product

Language and grammar

One of the things your writing will be judged on is good English. This is not done to disadvantage students who are second-language English speakers. People communicate their ideas through language. Therefore, a good grasp of the grammar of the language in which you write will help you to communicate your ideas clearly.

If you want to have your essay professionally edited for language, you may do so at your own cost before submitting the essay. Editing is a 'process' step that enhances the final product. However, the judges of the Competition are aware that many law students in South Africa are not first-language English speakers and cannot afford to hire an editor. In the judging process more weight is given to the originality of ideas and legal insight than to English skill. Either way, write the best academic essay you are capable of.

Winning essays may be published. If an essay is edited before publication, the writer will be contacted to review the editor's suggestions. This is standard practice and the author retains copyright.

Presentation and layout

A piece of legal writing should be attractive to read and the reader should be able to see at a glance that the prescribed conventions have been complied with. The document should be consistent in the spelling of words (eg organise vs organize) and the appearance of subheadings, spacing and margins. Page layout, font size and type, referencing, and list formats all have conventions that should be followed.

The following section provides guidance on these technical issues. The original source, the *SALJ House Style: Editors' Guide*, is available or request from Juta Publishers. Remember that you may also follow the style used by your law school. Ask at the faculty office for the relevant guidelines.

Page layout

The page layout should include the following:*

- Margins of 2.54 cm (1 inch) all round;
- Line spacing of 1.5;
- Text must be fully justified (lined up against right and left margins);
- Indent the first line of each paragraph and do not leave a blank line between paragraphs.

* *SALJ House Style Guide* at 2.

- However, do not indent the following lines:
 - The first line of the whole essay;
 - The line that appears immediately after a subheading or heading.

Font and type

The *SALJ* uses the following font:

- Times New Roman [TNR];
- Font size: 12 point for normal text;
 - 11-pt TNR for indented (block) quotations;
 - 10-pt TNR for footnotes.

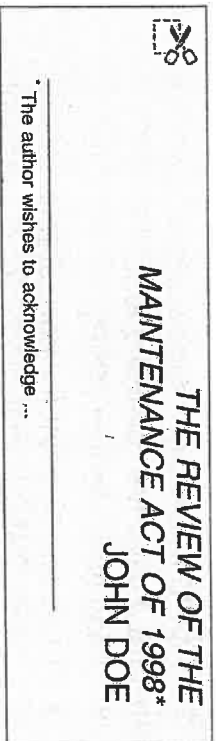
If you are following the *SALJ* style, do not use bold type or underlining, not even for subheadings. Main headings are capitalised (eg INTRODUCTION) and subheadings should be italicised (eg *International law*).*

Title of essay and author's name

The title of the essay and the author's name are aligned against the right margin. They must both be written in capitals, with the title also being italicised. Case names are written in roman type. Leave a blank line between the title and the author's name.

* *SALJ House Style Guide* at 2-3.

If you want to make any acknowledgments, place a superscript asterisk after the essay title. Footnote this asterisk and show the acknowledgments in the footnote. Acknowledgments are not compulsory.



The qualifications of the author must be given in a separate footnote using a double superscript asterisk (**) or symbol such as _ or §. Joint authorship is not encouraged for the Ismall Mahomed Competition.

Headings

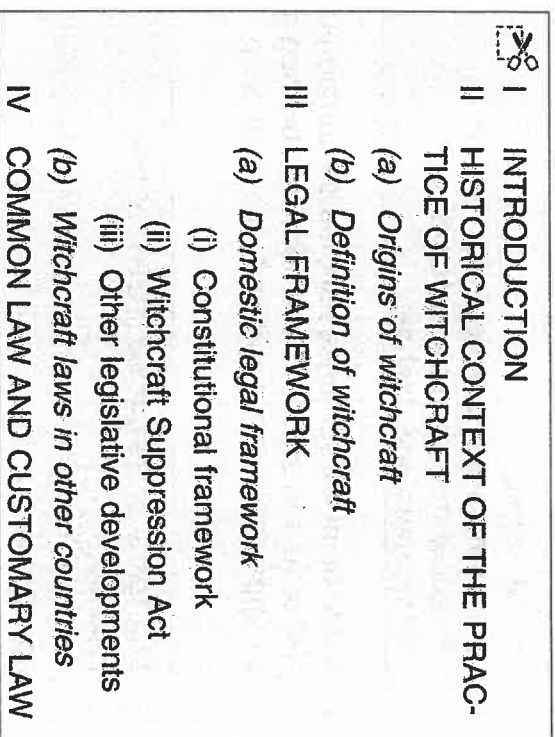
All headings must be aligned on the left margin. Main headings must be written in capital letters. Subheadings should be italicised and in sentence case (capitals for a first letter and proper noun). Avoid going beyond sub-subheadings.

The numbering of subheadings is optional; you will not be penalised if you do not number them. If you want to number the subheadings, do so as follows:

- capital numbers in roman type for the main headings or 1st level headings (I, III, III, etc);

- (a), (b), (c) etc for subheadings (2nd Level headings);
- (i), (ii), (iii) etc for sub-subheadings. (3rd level headings);

An example is shown in the box below.



WRITING STYLE

Spelling and capital letters

The SALJ uses the 's' form of English spelling (eg categorise, analyse, emphasise rather than categorize etc). The style guide prefers 'in so far as' rather than 'insofar as', and 'moneys' rather than 'monies'.

Capital letters are used in all proper names (eg South Africa) and for Act, Schedule, Bill, President, Constitution and Parliament. Use lower case for 'government' and 'department' unless the full name appears.

- ✂ • The government has a generous budget for education.
- The treaty was ratified by the Government of South Africa.
- The report was sent to the department for comment.
- The Department of Education was consulted.

Use lower-case for most legal words, including court, judge, council, counsel, municipality, statute and premier. For courts, use upper-case for the superior courts only (Supreme Court, Constitutional Court, High Court, Admiralty Court). When in doubt, use lower-case.

Numbers, dates, percentages, money

For numbers between one and twenty and all approximations, use words.

Numerals should be used for numbers higher than twenty; ages ('5 years old' or a '5-year-old child'); percentages (15 per cent); and measurements, quantities and amounts (8 cm, 40 km, R5 million). In tables and graphs, use only numerals and not words, and if the table includes percentages then use the symbol (%) rather than 'per cent'.

Never begin a sentence with a figure; rather reword the sentence or use words. If a lot of numbers appear in a piece, use numerals (except as the very first word of a sentence).

- ✂* • The proposal was supported by eight of the respondents.
 - The proposal was supported by 28 of the respondents.
 - First-aid lessons were given to 14 boys and 23 girls.
- [Here, do not use 'fourteen' because this would mean unnecessarily mixing numerals and number-words in the same sentence.]

* SALRC Style Manual 2013 at 72-73

- Eight respondents supported option 1, and thirty-nine respondents supported option 3. Only three respondents preferred option 4. The majority of respondents (72) favoured option 2.

A space rather than comma should be used in large numbers (eg 42 560). Where rands and cents are cited, cents are shown after a dot (eg R320.25). If there are no cents, do not add '.00' (write R320 rather than R320.00).

Dates and centuries

The correct style is as follows:

- 4 July 1990;
- in the 1990s (*not* in the 1990's);
- in the twentieth century.

Dashes and hyphens

Hyphens join words that are related and belong together. Examples of correct use are as follows: multi-task, age-related, goings-on, passers-by, 4-year-old child, sub-subheading and post-apartheid.

Dashes are longer than hyphens. They have the following purposes:

- To attach a word, phrase or clause onto another phrase.
- To emphasise a word.
- To show continuity.

Dashes

- His expertise and loyalty are available – at a price.
- Law reform agencies are independent – from government and other stakeholders – in their deliberations and in the recommendations and reports that they issue.

Quotations

Quotations are a reproduction of the original text, including all original italics and punctuation.

Short quote

The court held the view that 'the applicant's action was an abuse of the court procedure'.

Use single quote marks for primary quotations. Use double quote marks for quotations within quotations.

Double quote marks

Davel and Jordaan *Law of Persons* make the observation that 'even a person under the age of eighteen "who by law has the status of a major", may acquire a domicile of choice'.

Short quotations (fewer than 40 or 50 words) must appear as part of the text. Long quotations (more than three lines or longer than 40 to 50 words) must be blocked off from the text and indented from the

margins. It is acceptable to block off shorter quotations for emphasis. Remember that all direct quotes need to show the exact page number in the footnote.

Where a quotation is introduced by a colon, it should begin with a capital letter (use square brackets to show any changes you make to the original). If a colon is not used, start the quotation with a lower-case letter.

Long quote


Davel and Jordaan *Law of Persons* express the following view:*

If it is accepted that the minor is, in fact, a party to a lawsuit before the court, it is obvious that the minor must pay the bill of costs out of his own estate should his lawsuit be unsuccessful.

(The normal principles regarding orders relating to costs also apply here, namely that the successful party is normally entitled to costs.) The parent or guardian can only in exceptional circumstances be ordered to pay the costs of an unsuccessful lawsuit which he has instituted on behalf of a minor *de bonis propriis*, namely, if the court does not approve of the actions of the parent or guardian or ...

* Give the source, including page number, in your footnote.

Where a quotation begins with a capital letter, the closing full stop should appear inside the closing quote mark. Where the quote forms part of a larger sentence, the full stop should appear after the closing quotation mark.

- 
- The court held the view that 'the applicant's action was an abuse of the court procedure'.
 - He commented, 'This assertion did not go uncontested.'

Referencing and citation

There are various ways of citing sources for the essay that are acknowledged as authority.* These include the following:

- academic publications, such as a book or an article in a legal journal;
- dictionaries and encyclopaedias;
- documents published on the internet or in another recognised electronic format;
- government publications;
- publications by international organisations;

* SALRC Style Manual 2013 at 51

- publications by recognised institutions (including law reform agencies, universities, recognised NGOs, and commissions);
- parliamentary publications;
- papers from conferences
- international conventions and agreements; and
- legislation and case law.

Details for citing these sources are provided below.

Cases

All case titles must be written in italics (but the case reference must be in normal print). The first time the case name and citation appear, they must be given in full as they appear in the relevant law report. Additional parties should be left out if it is possible to do so without causing confusion.

- *Smith v Jones* 1967 (2) SA 143 (T)
- *Long v Short* (4) [1948] 2 All ER 382 (CA)
- *Kersey v Wilder Instruments* (Pty) Ltd (456/2011) [2011] ZAGSJ 123 (14 February 2011)

Where a volume is identified by the year and more than one volume is published each year, write the year in square brackets. Where reports are numbered in a series of volumes or numbered indepen-

dently rather than by year, show the year in round brackets. For *SA Law Reports* (SALR) published after 1946, show the volume number and court division in brackets. When referring to an unreported case, use the citation shown in your source (eg JOL or the JRD citation or a neutral citation). The *SALJ House Style Guide* shows two styles for unreported cases (with no neutral citation) using the date of the judgment.*

- *Black v Brown* (1907) 22SC 98
- *Rodalia Assurance Corporation v Page* 1975 (1) SA 708 (A)
- *Dlamini v Jacobs* (NPD) unreported case no 98/05 (3 August 2006)
- *Dlamini v Jacobs* (NPD) unreported case no 98/05 of 3 August 2006

Do not give double citations. Juta prefers citations that refer to the SALR or other Juta reports.

'A' is used for page references but not paragraph references. Give both the page and paragraph references if you know them.

* SALJ House Style Guide at 6

- ✂ 1. *Rood's Trustees v Scott and De Villiers* 1910 TS 47 at 48
2. *Barker v Barker* (1829) 1 Menz 265 at 266

If a case is referred to in the text (body) of your essay, the case reference must appear in a footnote.

✂ 4.18 The South African law of delict followed the 'all-or-nothing' rule of the English law rather than the relative fault principle of the Roman-Dutch law. This was lamented by Watermeyer J in *Pierce v Hau*.²⁶ The learned judge makes the following comments...

²⁶ 1944 AD 175 at 195.

Books

Authors' names must appear as shown on the title page of the relevant book, chapter, or article (eg John D Smith must appear as John D Smith, not as JD Smith.) If you refer to more than one work by the same author, distinguish between them by using the name or a shortened name for each work in your footnotes. Write the name of the publication in italics, followed by the relevant page number.

Where more than two authors wrote a work, in your footnotes cite their names and use an ampersand (&). However, in the main text write 'and' between their names. For multiple authors, cite only the first three names followed by 'et al'.

- ✂ • (*footnote*) Smith & Dlamini 1998 at 23
- (*footnote*) Smith, Dlamini & Pillay 2001 at 46
- (*footnote*) Smith, Dlamini, Pillay et al 2005 at 12
- (*main text*) According to Smith and Dlamini, ...

Where a book is a collection of pieces, the name/s of the editor must be followed by '(ed)' or '(eds)'. If the book is any edition after the first, the number of the edition must appear after the title — for example, 2 ed, 3 ed (not 2nd ed, 3rd ed).

Book titles must be written in title case and italics.

- ✂ **Single author:**
 - Christie at 54; or
 - Christie *Contract* at 54.
- Two authors:**
 - Cronjé & Heaton at 67; or
 - Cronjé & Heaton *Law of Persons* at 67.

Multiple authors:

- Neethling, Potgieter & Visser at 102; or
- Neethling;
- Potgieter & Visser Delict at 102
[if more than 3 authors, add 'et al' after the third surname].

Single editor:

- Boezaart (ed) *Children* at 23.

Multiple editors:

- Davel & Skelton (eds) *Commentary* at 18.

Chapters in books


When referring to a chapter in a book by more than one author, the chapter and book titles must be given in full in a footnote on the first citation. Place quote marks around the title of the chapter, and italicise the title of the book. The author's name must appear exactly as it does in the book.

 M Bear & D Bear 'Too hot, too cold, just right?' in Mary Goldlocks (ed) *The politics of Cookery* 3 ed (2004) 23-7

Journal articles

The name of the author must appear exactly as shown in the journal article. The title of the article

must be in sentence case, inside single quote marks. The year of publication and volume number must be written in brackets, and the journal title must be italicised. Well known journals can be abbreviated (eg SALJ). Where the publication does not have a volume number, the year is not placed in brackets.

-  • Jane Dube 'The new Consumer Protection Act: An introduction' (2002) 119 SALJ 700 at 725
- SP Moyo 'The decline and fall of constitutionalism' (1998) 23 SAJHR at 456
 - 2006 *Acta Juridica* at 43
 - 2003 *TSAR* at 89
 - 2004 *Annual Survey of South African Law* at 776

Thesis

Write the name of the author, followed by the title of the thesis. State that the work has not been published and which institution it was submitted to, and in what year.

- ✂ • Petrus TS *An Anthropological Study of Witchcraft-related Crime in the Eastern Cape and its Implications for Law Enforcement Policy and Practice* (unpublished Phd thesis, Nelson Mandela Metropolitan University, 2009)
- Mary Brown *South African Theories of Justice* (unpublished LLM thesis, Rhodes University, 2001) at 334

Newspapers

The following information must be provided when referring to newspaper articles:

- the full name of the author, if available;
- the name of the article (in quote marks);
- the name of the newspaper, in italics;
- the date of publication; and
- relevant page or section numbers.

- ✂ • Angela Jones 'Nuclear reactor in trouble' *The Star* 24 May 2005 at 2
- Geldenhuys H 'Call in court to decriminalise prostitution' *Cape Times* 26 October 2000 at 3

White papers and policy documents

- ✂ • The *White paper on Energy Policy* (GN 3007 in GG 19606 of 17 December 1998).
- The 'National Policy on HIV/AIDS for Learners and Educators' (published in GG 20372 of 10 May 1999).

Law Commission papers

Write the name of the institution, the name of the report or paper (in italics), and the year of publication. Give the page or paragraph number.

- ✂ • South African Law Reform Commission Discussion Paper 107 (Project 123) *Protected Disclosures* (2004) para 56
- South African Law Reform Commission (Project 123) *Report on Protected Disclosures* (2007) at 14

The Constitution

The first time you refer to the Constitution, cite it as 'the Constitution of the Republic of South Africa, 1996'. The interim Constitution is 'the Constitution of the Republic of South Africa, Act 200 of 1993'.

Legislation

In the first reference, give the short title, number and year of a statute without any punctuation.

- ✂ • Attorneys Act 53 of 1979
- The Criminal Procedure Act 51 of 1977

If you refer to the same legislation later in the essay on the first citation you may mention a suitable short form of the work:

- ✂ • Insolvency Act 24 of 1936 (the Insolvency Act)
- Insolvency Act 24 of 1936 (the Act)
- Insolvency Act 24 of 1936 (Act 24 of 1936)

Abbreviations may be used for sections, subsections, paragraphs and subparagraphs, but do not use an abbreviation in the very first word of a sentence.

- ✂ • chapter = chap
- section = s (plural ss)
- subsection = subsec (plural subsecs)
- paragraph = para (plural paras)
- subparagraph = subpara (plural subparas)
- article = art (plural arts)

Italics must be used for paragraph letters, but not for roman or arabic numerals.*

- ✂ • s 45 (20) (*b*) (*i*) (*aa*)

The word 'schedule' must be written with a capital S when it refers to a specific document, but with a lower case s when used in the generic sense.*

- ✂ • In terms of Schedule 4 to the Act, no person may ...
- In the earlier discussion, he mentioned that according to the schedule no person may ...

* SALJ House Style Guide at 9; SALRC Style Manual at 36 and 60.

* SALJ House Style Guide at 9

Delegated legislation

Legislation is cited as follows:

A proclamation:

- Proc R46 GG 24567 of 31 January 2003.

Regulations:

- The Road Accident Fund regulations in GN 232 GG 24568 of 1 February 2003.

Some pieces of delegated legislation must be abbreviated, others not:



- Government Notice = GN
- General Notice = General Notice
- Proclamation = Proc
- Provincial Notice = Provincial Notice
- Regulation = reg

Internet sources

The method for citing books, journals and other documents is also used for internet sources. Writing the website name (not URL) is optional; if you do write it, it must appear at the start of the reference.

Then write the author's name and the title of the piece, and a page number or any other pinpoint. The URL must be shown at the end of the reference, in black and italicised (not underlined). Give the date you accessed the website.*



- John Bringardner 'IP's brave new world' available at <http://www.law.com> at 2, accessed 12 May 2008.
- The Star M Maximus 'Time to say goodbye?' The Star online 24 May 2005, available at <http://www.thestar.com/arts/wed> accessed 23 February 2009.

Where a published source (eg an article in a law journal) is accessed through the internet (eg an online law library), cite the original source and not just the website.

Footnotes

Footnotes serve two purposes:

1. To emphasise points or allow for quoting material that is not important enough — or is too long — to appear in the main body of the text, and which would unnecessarily clutter the text.

* SALJ House Style Guide at 10; SALRC Style Manual 2013 at 47.

2. To reference sources (as described above). The first time a source is cited, give all publication details in full. For any subsequent references to the same source, give the author's name and a cross-reference 'op cit' to the first footnote where it appeared. Do not italicise 'op cit'.

Op cit and et al

Smith & Dlamini op cit note 5 at 67. [You are here referring to page 67 but your earlier reference to Smith & Dlamini's work was to a different page]

- Pillay et al *Disclosure* op cit note 19.

Cases are cited the same way, but use 'supra' in place of 'op cit'.

Supra

- *Fedsure* supra note 12 para 34
- Supra note 16 at 365 G-H

For *consecutive* references to the same work, use 'ibid', with or without a page or paragraph number.

Ibid

- Ibid
- Ibid at 45
- Ibid para 45

Abbreviations

Do not use Latin abbreviations (eg, etc, ie) in the main text. You may use them in brackets in the text (eg like this), and in footnotes.

For organisations, countries and so on, write a name in full the first time you use it. If you want to use an abbreviation of the name, introduce it in brackets the first time the full name appears. Thereafter use only the abbreviation.

Do not switch between using the full name and the abbreviation; be consistent.



An overview of investigations by the South African Law Reform Commission (SALRC) shows that this country has much to be proud of in the area of law reform. The SALRC has produced numerous reports that examine the role of customary law as well as...



Notes:

A series of 20 horizontal dotted lines for writing notes.