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Freedom in Structure: Helping Foreign-Trained and International Graduate Students Develop Thesis Statements by Component¹



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“[C]oming at things backward, awkwardly and in uncertain steps can lead to unanticipated and astonishing breakthroughs.”³

Any writer finds crafting a clear thesis statement to be a challenge, but even more so when one has to write with limited language proficiency, for a different writing culture, or in an unfamiliar genre. At the University of Washington School of Law, our foreign-trained and international graduate students⁴ tend to face all three of these challenges in their legal writing projects, and these become particularly burdensome for students when they write their final required LL.M. papers.⁵ Similar to a typical master’s thesis, this paper requires students to state and defend a narrow, novel, non-obvious, and useful claim.⁶ Finding and articulating this claim—or thesis—is not only key to guiding the research project and keeping the paper under control, but also requires a complete and nuanced understanding of the parts of a claim and how they fit together.⁷

This article explains how I help students gain this understanding and control through the use of a thesis development template. I created this template to reinforce key lessons from the two texts our students read for their advanced research and writing courses at UW Law: Eugene Volokh, *Academic Legal Writing: Law Review Articles, Student Notes, Seminar Papers, and Getting on Law Review* (5th ed. 2016) (now Volokh) and Joseph M. Williams and Joseph Bizup, *Style: Lessons in Clarity and Grace* (12th ed. 2016) (now Williams). The template asks students to state the thesis in three discrete, interrelated components—*condition, cost, and solution*.⁸ It works well because it helps students examine the connections among the components of the thesis, and it also gives them the freedom and agility they need to incrementally develop from the component on which their thinking is most clear—either by working backward from solution to condition, or through an iterative process that develops all three components through repeated cycles.

This article begins by discussing special issues that typical foreign-trained or international graduate students face when writing the LL.M. paper. Next, it explains the origins of the components on the template and the thesis development processes they enable. It ends by presenting some illustrations of how students have used the template to shape their own thinking by component.

PARTICULAR CHALLENGES FOR FOREIGN-TRAINED OR INTERNATIONAL STUDENTS

To successfully state and defend an academic claim (or thesis)—in any language—writers must do much more than write clearly; they must also understand and write in a way that conforms to the rhetorical expectations and writing conventions of the academic writing genre for a particular academic discipline. Because our foreign-trained and international LL.M. students tend to be non-native speakers of English, they have to work hard just for clarity in English sentences, and many of them have received little to no training in academic writing conventions in any discipline—let alone law. Another subset of them come from developing and post-conflict nations, or nations with governments or economies in transition.⁹ While many of these students have a wealth of professional experience and skill, they typically have had little opportunity to build the academic research and writing skills that students develop in institutions of higher education in the U.S. or in countries with more stable governments and education systems.¹⁰

Our students' challenges do not stop there. Many of them also trained in countries that have historically had different rhetorical preferences from those expected by typical U.S. legal readers.¹¹ For example, writers and readers in other discourse communities may tolerate or expect more digressions and side discussions;¹² they may use cohesive connectors in ways that differ from what typical English speakers and writers expect;¹³ or they may be accustomed to writing that values more indirectness¹⁴ or builds to a thesis revealed at the end.¹⁵ They may also bring different perspectives on the ownership of ideas, including the need for citation and attribution with the frequency and detail that U.S. legal discourse communities typically expect.¹⁶ With these different perspectives and approaches to the task of writing, our foreign-trained and international students are in particular need of direct, clear instruction on some of the writing forms and expectations that U.S. trained writers may take for granted: the ability to craft a clear thesis statement—positioned prominently and early in the introductory material of a piece—being among the most fundamental of these skills and rhetorical preferences.

Finally, many of our students come from developing or post-conflict nations, countries facing urgent problems that need multidimensional socio-legal solutions. Students from these countries often come to our program determined to write about issues as deep and wide as ending poverty and fighting corruption. When students are motivated to tackle these kinds of complex problems, it may be difficult for them to see a path to a narrow claim that can be defended in a relatively short academic piece like the LL.M. paper.¹⁷ It was these students, in particular, that helped me see the need for a template to help students articulate their important ideas.

COMPONENTS OF THE THESIS DEVELOPMENT TEMPLATE

The three components of the thesis development template—condition, cost, and solution—stem from writing advice by Volokh and Williams. At a base level, these components reflect Volokh's reminder that a good academic paper both states a problem and offers a solution.¹⁸ These two parts reflect what Volokh calls a *descriptive claim*, describing "the world as it is or as it was," and a *prescriptive claim*, suggesting

THESIS DEVELOPMENT TEMPLATE

- I. **CONTEXT** [The background your reader would need to understand the problem; historical background; recent event; common belief; anything else that reminds readers of what they already know. **Aim for 1-3 sentences.] AND**
- II. **PROBLEM** [Thesis Part 1—descriptive—either conceptual or practical]:
 1. **CONDITION:** [A situation, a recurring event, an important shift, or anything else that is causing or has the potential to cause trouble or concern. It could be anything from a lack of legal protection; a lack of coordination among laws or related services; a loophole that enables corruption or another injustice; a complexity or ambiguity in the law that few understand; a change in the direction of the law; etc. It should answer the question, “what is happening?” **Aim for 1 sentence] AND**
 2. **COST:** [The resulting harm, predicament, or change that is or will be caused by the condition above (or for conceptual problems, e.g., the pattern or potential for bad law or policy). It should answer the question, “why should we care about the condition?” **[Aim for 1 sentence] AND**
- II. **SOLUTION** [Thesis Part 2—prescriptive] **[Aim for 1 sentence]**
 1. [conceptual→ how should we change our thinking?] AND/OR
 2. [practical→ how should we change what we do?]

Above is the full thesis development template, including an additional component for “context” consistent with the structure Williams recommends for successful introductions.¹⁹ The context component helps students consider not only the context for their problem, but also the background knowledge of the reader. To support students’ effort to focus, the condition-cost-solution components are limited to one sentence each.

“what should be done.”²⁰ While Volokh concedes that not all papers will have both, he suggests that the best papers usually offer some kind of directive to readers about what they should do or think in light of the problem the paper exposes.²¹

To this basic structure, the template draws from Williams to add another dimension to the task of articulating problems.²² Williams posits that “for readers to think that something is a problem, it must have two parts”—a *condition* and a *cost*.²³ Under this schema, a *condition* is a situation, recurring event, or anything else that is causing or “has the potential to cause trouble.”²⁴ He explains that this condition, in turn, should result in a demonstrable *cost*—“the *intolerable consequence* of that condition,” or the resulting harm, predicament, change, or trend that is or will be caused by the condition.²⁵ In essence, he challenges writers to answer two questions when stating problems: *what’s going on?* (the condition) and *why should we care?* (the cost).

Williams also emphasizes that the nature of the solution (like Volokh’s prescriptive thesis) will be different depending on whether the descriptive thesis identifies a *practical* or *conceptual* problem—whether the problem calls for a practical solution

(such as legislative reforms or changes to programs or systems) or a conceptual solution (such as changing the way people think, especially when it helps answer a larger, unanswered question).²⁶ As such, I incorporated this nuance into the template as a reminder to students that they should be thinking about the nature of the problem they are addressing and how that will affect the solution they recommend.

USING KNOWN COMPONENTS TO SHAPE AND TEST OTHERS

By developing a thesis by these three components (condition—cost—solution), students gain the freedom to start from whichever component they understand best, developing the claim from the angle that helps them discover the scope and point of the other components. It also gives students a framework for testing how well the components fit together. Most importantly, this approach prevents students from feeling stymied by a gap in their understanding—allowing them the freedom to set aside the unknown components, instead of being tied to a linear process. Ultimately, the progress students make on honing a known component can increase their ability to find and develop any unknown components.

While some students are able to work forward in a standard progression from *condition* → to *cost* → to *solution*, other students may benefit from a working-backward strategy, tracing a path back from a *solution* to a focused statement of the *problem* (*condition* and *cost*). This approach resembles common problem-solving strategies in science and math, strategies that can help a problem solver gain a new perspective or use what is known or understood to derive the unknown.²⁷ It also evokes the more mundane analogy of finding the end of a pulled thread and following it back to the site of the snag. This working-backward approach is particularly useful when students see multiple solutions for a large unwieldy problem, like corruption for example. If they pick one solution—like the end of the thread or the projected outcome of an equation—they can work backward to find the specific condition and cost that give rise to the need for that particular solution.

Most students, however, seem to benefit from a more iterative, less linear process. This process might be likened to the iterative and incremental development methods widely used in software development, processes that approach work incrementally, allowing for the development process in repeated cycles, working and reworking pieces of a project as needed.²⁸ Using an iterative approach to developing thesis components, LL.M. students can start from any component and work forward or backward, cycling through the components, adapting and shaping each component in response to the evolving depth and specificity of the other components. They can do this until the entire thesis becomes sufficiently clear and specific.

As an example of iterative processing, I had a student from Indonesia who knew her basic *condition* component from the outset: while, in general, Indonesia had been making great progress on combatting corruption, it had no useful framework for prosecuting government officials who were illicitly enriched by illegal gifts. The *cost*, naturally, was the continuation of this type of corruption. As the student did her research on this topic, she learned about specific, indirect methods of investigation, such as the net worth method, which produces evidence of illicit enrichment by comparing actual wealth with information reported on tax documents. After identifying this *solution*, she was then able to narrow her condition statement to articulate that the Indonesian approach to investigating illicit enrichment was

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dependent on direct trapping because there was no available or accepted method of indirect proof. This lack of an indirect method enabled corrupt government officials to continue to accept illicit gifts (cost).²⁹

Students can also use this iterative method when starting from the *cost* component. For instance, I had a student who wanted to write about how women in Afghanistan were not bringing claims for domestic violence (the cost)—even though there were strong laws prohibiting it. Upon further inquiry into the reason for the lack of claims, she was able to articulate the *condition* that led to this cost: women were not bringing cases to the attention of prosecutors because they were afraid that they would be in even greater danger after exposing the violence—having no mechanisms for keeping the offending party from retaliating, nor reasonable access to shelters or other programs that would protect them through the judicial process. From there, the student was able to work with her supervising professor to identify a specific solution: key legislative and programmatic reforms, such as a mechanism for restraining orders and improved access to shelters.

Some students use a combination of working backward and iterative processes. Another student wanted to write on the topic of eliminating poverty in her country of origin, the Democratic Republic of Congo. The problem of *poverty*, being much too large and multifaceted, needed to be narrowed down to something manageable, something on which the student could make a more serious contribution to scholarship. When this student first filled out the template, her *condition* statement was that the people in the D.R. Congo were suffering from the effects of poverty and a weak economy. She articulated the *cost* as some of the obvious effects of poverty: people living in poor health and having little access to education or adequate housing. Her *solution* field, as a result, recommended taking various, broad steps toward good governance, redesigning government institutions, reforming the legal framework for business development, defining new strategies for economic development, and putting in place national development plans, among other broad suggestions. This was far too big for a successful LL.M. paper.

In an effort to help this student find a new angle on the problem, I asked her to narrow to one, more specific and practical *solution*, one of the many that she already knew she wanted to recommend. She turned to an industry that she understood well from her former training and law practice: the mining industry. She explained that the DRC could stimulate local economies and relieve poverty for some if it reformed its regulations on the processing and transformation of mineral substances to better protect and balance the interests of the environment and local artisan miners,

enabling environmentally sustainable economic gains for local people working in the mining industry. Having narrowed and honed this one component, she was in a better position to ask herself what specific condition and cost directly gave rise to the need for this more narrow, specific solution. In other words: How were current practices inconsistent with her recommendation, and what specific harm was caused by those practices that gave rise to the need for the reform?

CONCLUSION

Whether by working through a linear or iterative process, students can achieve important breakthroughs in their thinking when they have the flexibility to work on their ideas by component. A structured template, like the one I offer in this article, helps students do just that. Using the template, students can identify the key parts of a strong thesis and hone and develop each to create strong connections among them. Although I originally developed this template to respond to the needs of foreign-trained and international students, you may also find it useful with journal students, with PhD students at the prospectus stage, or even in your own writing projects.

The beauty of this template is the end product it enables. When students clarify their thinking and their writing, they are in a better position to share their important ideas with their communities and the world—my personal inspiration for helping them engage in academic scholarship.

NOTES

1. While I originally developed this method to serve foreign-trained and international graduate students of law, it could easily be adapted for work with law review and journal students, native speakers of English, or other writers working to develop thesis statements in the academic legal writing genre.
2. Thank you to friends and colleagues who helped me think through this piece: Dr. Dana Raigrodski, Carrie Sanford, Sanne Knudsen, and Stephen Horowitz. And a special thanks to my husband, John H. Chun.
3. Akiko Busch, *The Surprising Benefits Of Working Backward*, FORBES.COM/PERSONAL FINANCE (July 1, 2013, 1:12 PM), <https://www.forbes.com/sites/nextavenue/2013/07/01/the-surprising-benefits-of-working-backward/>
4. At the UW Law, I am both a Lecturer and a Writing Advisor, teaching classes such as American Legal Systems and Method and Legal Research Methods, as well as advanced writing and research courses. I also provide individual consultation and tutorials on legal writing to students participating the LESPA program (Legal Education Support Program—Afghanistan) and the Ph.D. in Law program.
5. Most of our graduate programs at UW Law require students to produce some kind of major research paper to complete their studies—usually a law review style academic piece that falls between 35 to 40 double-spaced pages (or around 8,750-10,000 words).
6. Eugene Volokh identifies these characteristics as key to a successful law review article. *ACADEMIC LEGAL WRITING: LAW REVIEW ARTICLES, STUDENT NOTES, SEMINAR PAPERS, AND GETTING ON LAW REVIEW* 10 (5th ed. 2016).
7. When students have not conceived of their claims in a sufficiently narrow way, they tend to read and write with little focus and their research may spin into an unwieldy monster project.
8. See *infra* for explanation of these components.
9. Countries such as Somalia, Afghanistan, Indonesia, and The Democratic Republic of Congo, among many others.
10. In our graduate programs, we regularly host students from countries as far-reaching and varied as Afghanistan, Mongolia, Russia, Ukraine, Cambodia, the Gambia, Somalia, the Democratic Republic of Congo, Korea, Japan, China, France, Spain, India, the Netherlands, Colombia, Mexico, and Canada, among many other countries around the world. Notably, out of the 146 students enrolled as LL.M. students in the 2017-18 school year at UW Law, 23 are foreign-trained (with residency or citizenship, but trained abroad) and an additional 68 are international. Out of 22 Ph.D. students, 3 are foreign trained, and 17 are international students.
11. Robert Kaplan, *Cultural Thought Patterns in Inter-Cultural Education*, 16/1 & 2 LANGUAGE LEARNING 2 (1966) (explaining that “[r]hetoric. . . is not universal. . . , but varies, from culture to culture and even from time to time within a given culture. It is affected by canons of taste within a given culture at a given time”). See also Jill J. Ramsfield, *Is “Logic” Culturally Based? A Contrastive, International Approach to the U.S. Law Classroom*, 47 J. LEGAL EDUC. 157, 172 (1997) (adding that “[t]he novice international student may be tempted. . . to import the analytical paradigms or schemata from his legal culture into U.S. legal discourse”). But see Ulla Connor, *New Directions in Contrastive Rhetoric*, 36/4 TESOL Q. 493, 504 (Winter 2002) (explaining how more modern studies in contrastive rhetoric show

that “differences in written communication [are] often stemming from multiple sources, including L1, national culture, L educational background, disciplinary culture, genre characteristics, and mismatched expectations between readers and writers”).

12. Kaplan, *supra* note 10, at 16 (observing that “[m]uch greater freedom to digress or to introduce extraneous material is available in French, or in Spanish, than in English”).

13. See, e.g., Aisha Mohamed-Sayidina, *Transfer of L1 Cohesive Devices and Transition Words into L2 Academic Texts: The Case of Arab Students*, 41 RELC J. 253, 254 (2010); see also M. Akram Sa'adeddin, *Text development and Arabic-English negative Interference*, 10/1 APPLIED LINGUISTICS 36-51 (1989) (finding transfer from common writing patterns in Arabic, in which coordinate and parallel constructions are common); see also, Elizabeth R. Baldwin, *Beyond Contrastive Rhetoric: Helping International Lawyers Use Cohesive Devices in U.S. Legal Writing*, 26 FLA. J. INT'L L. 399 (2014) (explaining how differences in use of cohesive devices, either from first language transfer or from misunderstanding, can make the legal writing of a non-native speaker of English “appear to lack a sense of coherence or flow, even if the logical structure may otherwise meet U.S. legal writing expectations for organization of content”).

14. See generally Ji Yushan, *Indirectness: A Barrier to Overcome in Teaching Writing*, 41/2 TESL REPORTER 1-13 (October 2008) (explaining that indirectness in Chinese writing may be related to Confucian or ancient Chinese values of maintaining social harmony). But see, Ling Yang & David Cahill, *The Rhetorical Organization of Chinese and American students' Expository Essays: a Contrastive Rhetoric Study*, 8 INT'L J. ENGLISH STUDIES 128 (2008) (finding that Chinese students also prefer directness, but generally U.S. student writing tends to be more direct than the writing of Chinese students).

15. See, e.g., ANNE ENQUIST, LAUREL OATES, & JEREMY FRANCIS, *JUST WRITING: GRAMMAR, PUNCTUATION, AND STYLE FOR THE LEGAL WRITER* 290 & 299-300 (5th ed. 2017) (discussing findings in linguistics, particularly contrastive rhetoric and pragmatics, to highlight rhetorical preferences from various writing cultures, and providing a helpful bibliography for ESL law students and legal writers).

16. Robin Nilon, *The Calculus of Plagiarism: Toward A Contrastive Approach to Teaching Chinese Lawyers*, 2 S.C.J. INT'L L. & BUS. 1, 40 (2006).

17. Another dimension of this problem: Many students from post-conflict nations struggle to find official or authoritative publications of the primary sources they need. Even when there are statutes or other key materials available online, those sources are often only searchable, at best, by “control F” on table of contents or, even worse, on a PDF. And the reliability of sources students find online varies greatly, even when posted on government websites.

18. VOLOKH, *supra* note 5, at 13.

19. WILLIAMS AND JOSEPH BIZUP, *supra* note 20, at 96-97

20. *Id.* at 10, 21.

21. *Id.* at 11-12, 35.

22. JOSEPH M. WILLIAMS AND JOSEPH BIZUP, *STYLE: LESSONS IN CLARITY AND GRACE* 95-96 (12th ed. 2016).

23. *Id.* at 98.

24. *Id.* Presumably, this could also be an important shift.

25. *Id.* at 98.

26. *Id.* at 98, 99.

27. Notably, disciplines like science and math have long encouraged *working backward* as a basic strategy for problem solving. See, e.g., GEORGE PÓLYA, *HOW TO SOLVE IT; A NEW ASPECT OF MATHEMATICAL METHOD* 5, 124 (2d ed. 1985) (discussing the utility of changing point of view and shifting positions—also asking, “[w]hat causes could produce such a result?”); RF Drake, *Working Backwards is a Forward Step in the Solution of Problems by Dimensional Analysis*, 62/5 J. OF CHEMICAL ED. 414, 414 (1985); Yiu-Kwong Man, *An Arithmetic Approach to the General Two Water Jugs Problem*, in PROCEEDINGS OF THE WORLD CONGRESS ON ENGINEERING 2013, London, U.K., VOL I, 1 (July 3 - 5, 2013), http://www.iaeng.org/publication/WCE2013/WCE2013_pp145-147.pdf. Cognitive scientists have found that while physics experts typically use *working forward* strategies to solve problems—using deductive reasoning and long-term memory to find solutions—physics novices tend to *work backward*, “focus[ing] on the quantity to be found, writ[ing] an equation involving that quantity, and then work[ing] backward, writing expressions for quantities that remain unknown.” Jill H. Larkin, John McDermott, Dorothea P. Simon, & Herbert A. Simon, *Models of competence in solving physics problems*, 4 COGNITIVE SCIENCE 317, 343-44 (1980). But working backward is not just for novices; in the fields of engineering and technology, variations on working backward strategies are used to help drive creativity and innovation into new product development or product ideation. See Abbie Griffin et al, *Serial Innovators' processes: How they overcome barriers to creating radical innovations*, 43 INDUSTRIAL MARKETING MANAGEMENT 1362 (2014).

28. See Victor Farcic, *Software Development Models: Iterative and Incremental Development*, TECHNOLOGY CONVERSATIONS.COM (January 21, 2014), <https://technologyconversations.com/2014/01/21/software-development-models-iterative-and-incremental-development/>.

29. Notably, this student continued to work on this paper after graduation, and it was eventually published. See Laras Susanti, *Dealing with Illicit Enrichment: What Indonesia Might Learn from U.S.*, INDONESIA J. OF INT'L AND COMP. LAW, Volume II, Issue 1, 41 (January 2015), <http://www.ijil.org/archives/volume-ii-issue-1>.