

# HANDBOOK ON LEGAL METHODOLOGY



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From Objective to Method

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## Handbook on Legal Methodology. From Objective to Method

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### Cover image: "Parking Lot" by Bram Tack

*A parking lot is an intriguing place to observe: cars come in from different angles and leave in different directions, all depending on the objectives of the drivers and their passengers. The same is true for researchers, as every research starts from a specific angle, develops its own methodology and follows its own course, all depending on the research's objectives.*

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*For my parents, Hilde and René*

*To my daughter, Hanne*

*With special thanks to my husband, Bram*



## FOREWORD

The present book explores prevailing theories on the nature of legal science and legal methodology, and investigates its unique characteristics. In doing so, the book aims to enrich the burgeoning research on methodology of law with new insights, and tilts the methodology debate onto a new, concrete and practical level.

This book is meant to assist master students and PhD students in law to enter into the opaque and complex field of legal methodology, and to develop their own methodological skills. The approach is very hands-on and written with special attention for scholars carrying out legal research. Although the subject matter is one of the most challenging in legal literature, the book is easy to read and invites academics to use it in research practice or research instruction. Probably more than any other publication on the topic it brings theory and practice on research skills swiftly together. This book is also of relevance to funding agencies and policy makers. Understanding theory and practice of legal methodology is of utmost importance in the context of interdisciplinary research. There is a clear need to understand the particular features of legal methodology, as compared to methodologies applied in other social sciences. All in all, the book is strongly recommended for all those who are in need of a hands-on manual on how to embark upon legal research, but at the same time tickles the interest of all those who show interest in research methodology at large.

The author, Lina Kestemont, stood out among other researchers at the Faculty of Law of the University of Leuven. It was crystal clear from the beginning in 2012 that she was as a very intelligent, ambitious and mature researcher, who showed a vigorous eagerness to explore a territory which was yet unknown to her: the area of methodology of law. She greedily joined our venture to strengthen legal methodology in the law curriculum by embracing the chance to assist in teaching legal methodology. Her input turned out to be vital in giving shape to our classes on legal methodology. The collaboration with Lina proved that she has the plasticity of mind and that she disposes over ample creativity and robustness to explore prevailing theories and assumptions in the field of methodology of law, and is able to guide research master and PhD students in law in their attempt to make their legal methodology explicit. Over the years we came to know Lina better, and realized even more how blessed we were having her around. Lina assumed leadership in the Research Master

Program without giving it a second thought, and lent her insights to set up a Crash Course Methodology for PhD students at our faculty. She was always keen to help research master students and to assist PhD students and professors in any way she could. The book very well reflects Lina's pedagogical attitude towards explaining research methodology. Lina is not the person to restrict her knowledge to mere theoretical considerations on legal research methodology. She wants to share her knowledge with fellow researchers and does it in a very accessible manner. By moments one can even feel the sheer enthusiasm that is typical to Lina's teaching approach.

We consider the author a top-notch scholar on legal methodology, an excellent teacher and a dear friend. Her intellectual strength and generous spirit will continue to inspire us.

Prof. dr. Paul Schoukens & Prof. dr. Geertrui Van Overwalle  
University of Leuven, Belgium



## WORDS OF GRATITUDE

This handbook is the result of a PhD project (2011–2016) for which I would like to thank several people. First of all, my supervisor Prof Dr Paul Schoukens. He was an excellent mentor who took the time to critically reflect on the project, to proofread my texts and to give feedback. He always stimulated me to seize chances, to improve my skills and to gain the necessary experience. His time and efforts made me a better scholar. I'm also grateful to my co-supervisor, Prof Dr Danny Pieters. He mentored me during my master years, gave me a warm welcome at the *Institute of Social Law* and learned me the basics of good legal research. Being offered a PhD position under his co-supervision was a great honour to me.

I would like to thank the members of my jury: Em Prof Dr Frank Hutsebaut (president), Prof Dr Geertrui Van Overwalle, Prof Dr Jeroen Maesschalck and Prof Dr Rob van Gestel. They all have supported and motivated me in their own way throughout my PhD project. In particular, I would like to thank Geertrui Van Overwalle for her mentorship during my years as a master and a PhD student. She taught me how to be critical and focused when analysing problems. Our meetings and conversations did not only improve my professional skills, but also my confidence as a young, female scholar.

I am thankful for the support of my colleagues, in particular: Eleni, for her support in good times and bad, Carla, for all the practicalities, Karen to revise my texts and Kirsten for being there. I am also grateful to Els Vandensande, a colleague but most of all a friend who was my help and stay throughout the entire project.

I would like to thank my family for their continuous support: my siblings, Britta and Mike, their partners, Rien and Lore and my in-laws, the Tack family. I am very grateful to my father René who was prepared to proofread my texts at any time and my mother Hilde who in difficult times was always there to comfort me.

My final words of gratitude go to my husband, Bram. Writing a PhD is both an enriching and exhausting process, with many ups and downs. His loyal support throughout these five years was a sign of unconditional love and strong faith in my abilities; a gift for which I am truly grateful and of which I am reminded every day in our little girl, Hanne.



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