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Improving Legal Writing Competence through an ESP-Based Approach: Challenges, Needs, and Pedagogical Strategies

Burhan[1] and Dr. Zeba Azmat[2]

[1] Research Scholar, Department of English, Aligarh Muslim University, Aligarh, Uttar Pradesh, India
Email: gj6201@myamu.ac.in

[2] Assistant Professor, Department of Law, Aligarh Muslim University, Aligarh, Uttar Pradesh, India
Email: zebaazmat.lw@amu.ac.in

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Abstract

Writing and speaking are the most important language skills for the law students. Law students in their academic and professional life are required to deal with these two language skills mostly. Effective drafting and persuasive presentation are considered as the backbone of the legal profession. Sound knowledge of law along with the command over the language brings unbeatable results. But in the Indian context, students who are coming from the non-English background to the law courses find difficult to comprehend the language of law. Even the students coming from the English background also faces challenges. The problem lies in the fact that, this particular discourse, which falls in the domain of English for Specific Purposes (ESP) follows different language features than the general everyday English. The discourse is usually termed as "legalese". It is characterised by the different grammatical, lexical, semantic and syntactic features. These features bring difficulty in communicating legal ideas accurately, clearly, and precisely. ESL students find it difficult especially in drafting legal arguments, various legal documents and deeds, case analysis, bench memos, etc. The aim of this research work is to identify the major challenges faced by the ESL law undergraduates in effective legal writing skills from the ESP perspective. It also offers practical solutions to overcome such difficulties in order to achieve required competence in legalese. The challenges identified and solutions recommended are based on a decade long practical experience of the second researcher in ESL law classrooms. This paper argues that writing, in law is not just a general English language skill but a complete discourse with unique linguistic features and conventions, thus mastering it is a to success. An ESP based approach facilitates English learning by focusing on the identification

of specific needs of the learners and by suggesting pedagogical implications in an effort to improve the language competence of the learners required in a particular discipline.

Keywords: Legal Writing, ESP, Law Students, Writing Challenges, Legal Education.

1. INTRODUCTION

Legal writing is a core component of legal education due to it is the medium through which legal logic can be presented, tested and evaluated. Law students, beginning in their first day of law school, are required to write case comments, legal opinions, moot memorials, research papers and examination answers in the form that the conventions of legal discourse demand. However, extensive classroom experience and scholarship show that many students especially those for whom English is an additional language, struggle to produce writing that is grammatically accurate, lexically precise and structurally coherent (Berūkštienė, 2016; Rachmawati, 2024). Legal writing is not simply general English composition moved into a legal context. It is a discourse community with its own vocabulary, syntactic preferences, rhetorical moves and conventions of formality (Bhatia, 1993, 2004; Tiersma, 1999). Therefore, problems in legal writing cannot be solved with generic English language instruction alone.

English for Specific Purposes (ESP) provides a pedagogical framework well-adapted to this problem. ESP does not treat language learning as a generalised skill but begins with an analysis of what learners need to do with language in their target professional or academic setting and designs instruction accordingly (Hutchinson & Waters, 1987; Dudley-Evans & St John, 1998). Legal English is then a branch of ESP and requires materials, tasks and feedback based on authentic legal genres and on the specific linguistic demands of legal argumentation (Robinson, 1991; Bhatia, 1993). Drawing on this ESP orientation, this paper first examines the main challenges law students face in legal writing and second the pedagogical remedies that an ESP-informed approach can offer.

2. `LITERATURE REVIEW

2.(a) Theoretical Foundations of ESP

ESP was born in the 1960s as a consequence of the realisation that learners in professional and academic domains needed language instruction specific to the communicative needs of their disciplines rather than general purpose English (Hutchinson & Waters, 1987). Needs analysis is the central principle of ESP methodology. Course designers use needs analysis to identify learners' needs in their target situation, their present proficiency and their learning preferences before designing a syllabus (Dudley Evans & St John, 1998; Robinson, 1991). This distinction between language as an object to be learnt and language as a communicative resource to be used for particular purposes (Widdowson, 1991) underlies much of ESP pedagogy. In this context, legal English is sometimes conceptualised as a separate ESP variety, referred to as English for Legal Purposes (ELP) or English for Academic Legal Purposes (EALP) with specific curricular concerns (Bain Butler, EALP).

2. (b) Legal Writing as a Specialised Genre

Genre analysis has been especially important in characterising the unique features of legal writing. As Bhatia (1993, 2004) has shown in his work on professional genres, legal texts are distinguished by identifiable communicative moves and structural conventions that are significantly different from those of general academic or narrative writing.

Legal discourse is marked by nominal and passive forms, complex subordination, archaic and Latinate vocabulary and a high degree of interaction with statutes, precedents and other authoritative texts (Mellinkoff, 1963; Tiersma, 1999; Gustafsson, 1975). In addition, Danet (1980) points out that the formality, precision and impersonality of legal language are features that make it cognitively demanding even for native speakers, let alone for second language learners. The genre-based approaches to legal texts (Berūkštienė, 2016; Maley, 1994; Trosborg, 1997) highlight additionally that competent legal writing is not just a matter of linguistic accuracy, but also an issue of genre awareness, i.e. the ability to understand the purpose, audience and conventional structure of a given legal document.

2. (c) Documented Challenges among Law and ESP Learners

Numerous studies indicate that ESP and law students face comparable difficulties. Students often lack the vocabulary, sentence level accuracy and rhetorical organisation expected of professional legal writing according to needs analysis studies of law faculties. According to a broad ESP needs analysis, reading and writing are routinely identified as the most underdeveloped skills in specific academic fields As Rachmawati (2024) points out these skill gaps do not disappear on their own – even for advanced students – without specific, targeted instruction. most lacking specific skills in particular disciplines as a consequence of a broader ESP needs analysis study. Teacher certification and material design are mentioned as significant barriers to effective ESP delivery. Error analysis studies on EFL academic writing in general reveal common problems with uniform device selection, tense and aspect, subject-verb agreement and article use (Corder, 1967; James, 1998; Richards, 1984). In legal writing, these problems are exacerbated by the extra burden of official register and technical language (Nation, 2001; Coxhead, 2000). The body of research taken together shows that legal writing challenges work on a number of levels including linguistic, general and professional levels. So the solutions have to be complex as well.

3. OBJECTIVE OF THIS STUDY

- To determine and categorise the key legal writing difficulties encountered by law students.
- To analyse these difficulties from the perspective of English for Specific Purposes theories.
- To suggest practical pedagogical remedies to overcome these difficulties for enhancing students' legal writing skills.

4. METHODOLOGY

The study is qualitative and interpretive in nature using classroom experience on the various kind of language challenges students encounter while drafting legal documents. The research will look into 'what' are these challenges, 'why' they have these challenges and 'how' these challenges can be resolved. The paper will also consider the existing research in ESP, applied linguistics, genre theory, and legal writing pedagogy. Recommended pedagogical implications are in consultation with recognised ESP principles and in consultation with the testified classroom techniques and strategies used by the researcher in tackling such challenges. The framework is designed to inform the development of curriculum and classroom practice in teaching legal English.

5. CHALLENGES IN LEGAL WRITING: AN ESP PERSPECTIVE:

5. (a) Grammatical and Syntactic Challenges

Long legal sentences are a common phenomenon (Gustavsson 1975; Tiersma 1999). They are full of extra clauses, conditions and exceptions. This complex structure makes writing difficult for English as a Foreign Language Students. Since they are still building basic grammar skills, they frequently make

mistakes. They often struggle with poor subject-verb agreement, tense sequencing errors and improper use of articles and prepositions (Corder, 1967; James, 1998). In legal writing, Small grammatical mistakes can completely change the meaning. These small errors less significant in general language because legal meaning frequently depends on exact clause boundaries and conditional relationships.

Example:
A student might write something like, *If the tenant fails to pay the rent, the landlord have the right to terminate the agreement.*

While the mistake seems small in a legal context. The sentence has subject verb agreement errors. It simply needs to be corrected to; *the landlord has the right to terminate the agreement.*

A more complex example is: *Where the tenant fails to pay the rent within the required period, the landlord may terminate the agreement, provided that the tenant has been given written notice.*

This sentence is a good example of precision in law. Law students should learn the use of linkers and conditional clauses to achieve mastery in drafting deeds, especially contracts.

5. (b) Legal Vocabulary and Terminology

Legal English has a specific vocabulary. There is a rich use of phrasal verbs, specific collocations, archaic words, foreign words taken from Latin and French, binomials, circumlocution, technical legal expressions called as maxims etc (Mellinkoff, 1963; Crystal & Davy, 1969). Not only memorisation of vocabulary is enough, but the specific context where the specific term will be used is also essential to know so that the required meaning can be served. Besides that, arrangement of words in a particular sentence to form accurate syntax is also essential. Such skills are rarely taught in traditional vocabulary classes (Nation, 2001; Coxhead, 2000). Non or partial facilitation of the conventional language features of discipline area makes students struggle in effective legal drafting. These inadequacies often lead to inaccurate paraphrasing or incorrect use of legal terminology.

Example: in the below given example, sentence "A" is written in plain English, whereas sentence 'B' is written in the legal English.

A. *This contract may not be assigned or transferred by any party, without each other's written permission.*

B. *This contract, and all the rights under it, may not be assigned or transferred by either party without the prior written consent of the other party.*

Similarly, students may not able to understand the minute difference between the words like "breach", "infringement", and "violation" as these are the synonyms. But these three words have specific context and word combination. The word 'infringement' comes with 'legal rights', "infringement of legal rights" and 'violation' comes with 'law' making expression "violation of law". It would be rated as poor drafting if these words were used interchangeably. Therefore, it is necessary that while teaching vocabulary to the ESL law undergraduates, a special focused should be made on collocations, context, technical terms, meaning etc.

5. (c) Coherence, Cohesion, Organisation and Register

Good legal writing is well structured logically, ideas are linked clearly and the register is always formal and impersonal. Students often have difficulties with the logical flow of arguments, proper application of cohesive devices, the incorporation of case law and statutes, and the maintenance of formal language during their writing (Swales & Feak, 2004; Johns, 1997). They may also oscillate between informal and formal styles, especially when their exposure to authentic legal texts is limited (Danet, 1980; Widdowson, 1991). These problems can diminish the clarity, coherence and professional quality of legal writing.

Example:

A student may write: *The tenant was late on the rent. The landlord was livid. So, he dismissed the agreement. The tenant said this was unjustified as they were going through some problems. And they should be given some more time.*

The ideas are understandable but lack legal organisation, a formal register and clear connections. A more appropriate legal version: *The tenant failed to pay the rent within the stipulated period. As a result, the landlord terminated the agreement based on the relevant contractual provision. However, the tenant contended that the things completely out of their control stopped them from paying.*

This example shows how students can improve their legal writing. Using words such as "consequently" "however" and "in accordance with" helps arrange facts and arguments in a logical sequence.

5. (d) Genre Awareness

Because legal documents constitute distinct genres case briefs, memoranda, pleadings, contracts, statutes with their own conventional moves and structures (Bhatia, 1993, 2004; Paltridge, 2001; Bawarshi & Reiff, 2010) students who have not been explicitly taught these generic conventions often misjudge the expected structure, tone, and content of a given legal document, even when their general English proficiency is adequate.

Example:

A student preparing a **case brief** may simply provide a general summary of the case: *The case is about a dispute between the landlord and the tenant. The tenant did not pay rent and the landlord took legal action.*

However, a case brief normally requires organised components such as facts, issue, rule, application/analysis and conclusion. A drafting that matches more similarly with the discipline would include:

- **Facts:** The tenant failed to pay rent for three consecutive months.
- **Issue:** Did the landlord have the legal rights terminate the lease for unpaid rent?
- **Rule:** The landlord is authorised to terminate the contract if a tenant fails to pay rent .
- **Application:** The tenant failed to make rent. They still didn't pay after receiving the required notice.
- **Conclusion:** The landlord acted legally and terminated the lease with the contractual provision.

This example shows that knowledge of general English grammar alone is insufficient; students also need explicit instruction in the conventions and organisational patterns of different legal genres.

6. ESP-BASED REMEDIES AND PEDAGOGICAL STRATEGIES:

ESP-based legal writing instruction should focus on the specific linguistic and communicative difficulties encountered by law students. Rather than teaching English through general grammar exercises alone, instructors can use legal contexts to develop students' vocabulary, grammar, sentence construction, coherence, organisation and genre awareness. The following classroom strategies offer practical solutions to common difficulties in legal writing.

6. (a) Systematic Needs Analysis

Legal writing instruction should begin with a systematic needs analysis to identify the particular language problems and writing requirements of law students. The instructor can identify whether students experience difficulties with legal vocabulary, sentence construction, grammar, coherence or organisation. The results can then be used to design targeted classroom activities.

6. (b) Legal Vocabulary Identification

Students may be given the following words:

Breach, petition, liability, evidence, injunction, custody

They are asked to identify their meanings and use each word in a legal sentence

Custody: The accused is under the police custody.

Custody: All my assets are under the custody of bank.

Appeal: The appellant filed an appeal against the judgment.

This activity helps the teacher identify whether students understand both the meaning and actual legal use of specialised vocabulary.

6. (c) Jumbled Word Activities for Legal Sentence Formation

Jumbled word exercises can be particularly useful for students who struggle with word order, sentence structure and legal syntax. Students are given a series of words, in jumbled order, and asked to form a sentence that would be both grammatically and legally correct.

Example 1

Jumbled words: defendant / the / breached / agreement / contractual / the

Correct sentence: The defendant breached the contractual agreement.

Example 2

Jumbled words: Court / the / granted / plaintiff / injunction / an / to / the

Correct sentence: The Court granted an injunction in favour of the plaintiff.

Example 3 Advanced

Jumbled words: failed / the / because / tenant / rent / pay / to / landlord / the / terminated / lease / the

Correct sentence: Because the tenant failed to pay the rent, the landlord terminated the lease.

Example 4 ***Conditional Legal Sentence***

Jumbled words: fails / tenant / the / rent / pay / to / landlord / may / terminate / lease / the / the

Correct sentence: If the tenant fails to pay the rent, the landlord may terminate the lease.

Such exercises gradually develop students' understanding of subject–verb order, legal terminology, clauses, conjunctions, and sentence relationships.

6. (c) Genre Based Instruction

Law students need to understand that different legal documents follow different organisational and linguistic conventions. Genre based instruction can therefore expose students to model texts such as case briefs, legal notices, memoranda, petitions, written submissions and case analyses.

Example: Case Brief Organisation

Students may receive the following jumbled components:

Issue – Facts – Decision – Rule – Application

They are asked to arrange them into an appropriate case-analysis structure:

Facts → Issue → Rule → Application → Decision

Students can then write a short example:

Facts: The tenant did not pay the rent for three years.
Issue: Whether the landlord was authorised to terminate the tenancy.

Rule: The lease permitted termination upon failure to pay rent.

Application: The tenant's non – compliance to the rent deed in terms of payment resulted in the termination of the said deed.

Decision: The Court permitted termination of the tenancy in accordance with the contractual terms.

This teaches students both legal organisation and legal language.

6. (d) Task Based and Process Oriented Writing

Students should be given realistic legal writing tasks rather than only grammar exercises. Tasks may include drafting a legal notice, a case summary, a memorandum, a petition or a moot-court submission.

Example: Legal Notice Task

Students are given: The tenant has not paid rent for three months. The landlord wants the tenant to pay within fifteen days.

Students first produce a simple sentence: The tenant has not paid the rent.

They then develop it through successive stages: The tenant's non- compliance to give the rent.

→ The tenant's non-compliance to rent payment due under the lease agreement.

→ The tenant's non-compliance to rent payment due under the lease agreement despite repeated demands.

→ You are hereby called upon to pay the outstanding rent within fifteen days from the receipt of this notice, failing which appropriate legal proceedings may be initiated.

This draft → feedback → revision process allows students to improve their writing progressively.

6. (e) Vocabulary Focused Instruction

Legal vocabulary should be taught through context, collocations, word families and sentence formation, rather than through memorisation of isolated definitions.

Example: Match the Legal Words

Students match the words with their appropriate collocation:

Legal word Appropriate collocation

Legal Word	Appropriate Collocation
Breach	of contract
Burden	of proof
Grant	bail
File	an appeal
Seek	damages
Adduce	evidence
Impose	a penalty
Render	a judgment
Comply	with an order
Terminate	an agreement

- Students can then create sentences:
- The defendant breached the contract.
- The burden of proof is on the prosecution to discharge.
- The Court grant the bail to the accused.
- The judgment was appealed by the appellant party.

6. (f) Legal Word Formation Tasks

Exercises on word families may assist learners in understanding the variations in legal vocabulary as per grammatical function.

like:

decide → decision

liable → liability

legislate → legislation → legislature

interpret → interpreter

administer → administrator

6. (g) Sentence Correction and Error Analysis

Students can be given common errors found in legal writing and asked to identify and correct them.

Example 1

Incorrect: The plaintiff have filed a petition.

Correct: The plaintiff has filed a petition.

Example 2

Incorrect: The defendant did not obey the contract.

Better legal expression: The defendant failed to comply with the terms of the contract.

Example 3

Incorrect: The Court give the judgment yesterday.

Correct: The Court gave its judgment yesterday.

Example 4

Incorrect: The accused was charged for theft.

Better: The accused was charged with theft.

Students can maintain an "error log" in which recurring problems are recorded and corrected. This allows for more systematic formative feedback.

6. (h) Sentence Combining Exercises

Sentence combination exercises may be used to develop students' ability to write from short, choppy, disconnected sentences to more coherent legal prose.

Example

Separate sentences:

The defendant took a shop on rent. The defendant said he will give rent on time. The defendant did not give the rent on time.

Students combine them: The defendant took a shop on rent and promised to give rent on time but did not give the rent.

Advanced version: Although the defendant promised to pay the rent on time, he subsequently failed to discharge the obligation.

This exercise develops subordination, conjunctions, cohesion, and formal legal style.

Structured Formative Feedback

Feedback should focus on specific aspects of legal writing rather than simply marking an answer as "wrong."

For example, a teacher can use four categories:

Grammar: The subject and verb do not agree.

Legal vocabulary: Use *breach of contract* rather than *breaking the contract*.

Organisation: The legal issue should be stated before the analysis.

Clarity: This sentence contains unnecessary words; rewrite it more directly.

Example

Student: The defendant broke the agreement and the plaintiff was very angry so he went to court.

Feedback: Vocabulary + legal register + sentence structure.

Revision: The defendant breached the agreement, following which the plaintiff instituted legal proceedings.

6. (i) Legal Writing Puzzle Activity

A useful classroom activity can combine several ESP skills. Students can work together to unscramble words. They then combine those words into a meaningful legal sentence.

Example Court | because | appellant | failed | establish | sufficient |grounds | to the | dismissed | appeal | the| any

Answer The Court dismissed the appeal because the appellant failed to provide any sufficient grounds.

The teacher can then ask students to change the sentence:

Negative → affirmative

The appellant failed to establish sufficient grounds.

→ The appellant was unable to establish sufficient grounds.

Simple → more formal

The Court dismissed the appeal.

→ The Court dismissed the appeal for want of sufficient grounds.

6. (j) Integrated ESP Legal Writing Activity

Finally, all these activities can be combined into one classroom task. For example, students may be given the following situation.

There is a dispute between the parties.

The dispute is unresolved.

The dispute is having bad effects on the agreement.

They should try hard to solve the problem

Now, classroom instruction can focus on five different writing steps to result in an effective legal drafting.

Stage 1 Vocabulary Instruction: Search the technical words for the general words like, problem, bad, solve, hard.

Solution:

General words	*Technical Terms*
Problem	Dispute
Bad	adverse
Solve	resolve
hard	best endevours

Stage 2 Sentence construction with technical terms.

Solution: The dispute is having negative effect on the contract. The Parties shall try their best to resolve the dispute.

Stage 3 Synthesising Sentence using conditional linkers

Solution: If the dispute is having negative effects on the contract, the Parties shall exercise their powers and rights to achieve best solution of the dispute.

Stage 4 Legal transformation

Solution: If the dispute is having negative effects on the contract, the Parties are legally authorised to exercise their power to achieve best solution of the dispute.

Stage 5 Legal Drafting

Solution: *If the dispute is having negative effects on the contract, the Parties are legally authorised to exercise their power conferred upon them under sec. (no.of sec.) to achieve the best resolution of the dispute.*

7. DISCUSSION

The challenges described above do not stand alone but combine to aggravate each other. The lack of a legal vocabulary and the presence of grammatical mistakes lead to sentences that are inaccurate in legal drafting. Students without a clear logical framework cannot easily evaluate whether arguments are complete, or well sequenced (Bhatia, 2004; Swales & Feak, 2004) Thus, incomplete grammar instruction or instructions not focusing on the essential lexical and grammatical elements cannot produce proficient legal writers. The ESP framework's central insight that instruction should be organised around the specific communicative demands of the target discourse community, rather than around general language proficiency, therefore provides a coherent basis for integrating grammar, vocabulary, genre, and feedback into a single pedagogical programme (Hutchinson & Waters, 1987; Dudley-Evans & St John, 1998). Institutionally this requires closer collaboration between language instructors and legal faculty, so that ESP materials are grounded in authentic legal texts and assessment criteria used in law courses themselves (Bain Butler; Robinson, 1991).

CONCLUSION

Legal writing is a specialised, high-stakes skill that law students must acquire alongside substantive legal knowledge yet it is frequently taught as though general English proficiency were sufficient preparation. This paper has argued that the recurring difficulties law students face in grammar, vocabulary, coherence, register and genre awareness are best understood, and best addressed, through the framework of English for Specific Purposes. By

grounding instruction in systematic needs analysis, genre-based teaching, task-based practice, targeted vocabulary work, structured feedback and legal English instructors can help students move from generalised English competence toward the specialised communicative competence that legal practice demands. Future research might usefully test these proposals empirically through classroom-based intervention studies that measure the impact of ESP informed legal writing instruction on student outcomes.

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