

DESIGNING AND IMPLEMENTING A LEGAL ENGLISH COURSE TO DEVELOP THE RULE OF LAW IN THE CONTEXT OF TRANSITION IN PAKISTANI SOCIETY

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Abstract

The development of the rule of law in states at risk, like Pakistan, is significantly important in the context of war against terrorism: Pakistan has a dire need to transform its society. Pakistan is a common law country, therefore English is the language of law. However, most law students and recent law graduates do not have adequate competence in legal English. This results in a variety of problems: lack of proper understanding of law, delay in justice, non-availability of proper expertise at grassroots' levels etc. Such problems create hindrance in establishing the rule of law. To address this issue, the Pakistani legal education system needs improvement in curriculum development. This research was a thorough investigation to measure the level of existing linguistic adequacy of learners of law in Pakistan. Taking insights from the U.S. Legal System, the existing teaching methodology at U.S. law schools, and carrying out exhaustive research at the Center for International Legal Education (CILE), University of Pittsburgh, School of Law (Pitt Law), I recommended a legal English course in the light of needs analysis. To investigate learners' linguistic needs in academic and professional settings, empirical research was conducted through a survey. The study has a wide scope as the recommended course has been implemented in various academic and professional institutes of legal education in Pakistan. Overall, the course has been receiving significant appreciation as it aims to improve the standard of legal education, a must for a healthy change in any society, and the establishment of the rule of law.

This paper is divided into six parts. Part I provides introduction to the study, statement of problem, the objective and information about the present research. Part II is a review of literature in the field of the language of law keeping in view its features related to the development of a legal English

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course. Part III describes the research methodology chosen for the study, whereas Part IV reports the findings. Part V takes into account three things: rationale for recommending a course, recommended course outline, and guidelines for implementation. Finally, Part VI evaluates the implementation in the light of enforcement of rule of law.

PART I

This section is further divided into four parts: introduction, statement of problem, the objective and the present research.

1. Introduction

Pakistan is a common law country. In 1947, colonialism ended with the division of India into two independent states called India and Pakistan. Pakistan is a multilingual country having two official languages: *Urdu* and *English*. Other major languages are *Punjabi*, *Sindhi*, *Saraiki*, *Pushtoo*, *Balochi*, and *Potohari*. Besides this, some other languages and dialects of languages are also spoken in different regions of the country. The British introduced English in India, and this language still occupies a special position in Pakistan as it is widely used for running the affairs of the government. English plays a significant role in legal settings as well: keeping in view the common law tradition, judges in Pakistan write their judgments in English. Pakistan has a *Federal Shariah Court* (FSC) that monitors the application of Islamic law. The judges of the FSC, like the judges of other courts, usually write their judgments in English. Additionally, the language of statutory law is also English. Therefore, English is the language of law in Pakistan.

However, there are two media of instruction for legal education in Pakistan: English and Urdu. Despite the fact that the language of law is English in Pakistan, the majority of students study law in Urdu. Therefore, most law students and recent law graduates do not have the required academic and professional competence in English. To have a degree in law, students study law for a period of three years after the completion of their graduate studies. In Pakistani institutions of legal education, majority students study law for the LL.B degree that enables them to practice law after going through the bar exam. However, some legal institutions also offer diploma courses in some specialized fields of law. Very few institutions offer research degrees such as a M.Phil. or Ph.D. in law. Institutions of legal education in Pakistan are typically known as law colleges. In public sector, each law college is a part of a university, whereas a private law college has to be affiliated with a

university that is recognized by the Higher Education Commission of Pakistan (HEC). The HEC monitors universities in Pakistan in terms of quality assurance and funding from the federal government.

2. Statement of the Problem

Development of rule of law in states at risk, like Pakistan, is significantly important as the rule of law is a basic precondition for political, social and economic development. In the context of the war against terrorism, Pakistan has a dire need to transform its society. Establishment of the rule of law is one of the key issues in this context. Most law students and recent law graduates do not have adequate competence in legal English. This results in a variety of problems: lack of proper understanding of law, delay in justice, non-availability of proper expertise at grassroots' levels etc. Such problems create hindrances to establishing the rule of law.

To address this issue, Pakistan's legal education system needs improvement in curriculum development. Law students need to be fully groomed in the basic skills of reading, writing, speaking, and listening, in addition to acquiring proficiency in supplementary skills like giving presentations, taking part in legal discussions, and using appropriate language in the courtroom etc.

3. The Objective

The objective of this study is to recommend an English course for law students in Pakistan in response to their linguistic inadequacy in academic and occupational settings. To improve the standard of legal education in Pakistan, legal educational institutions can implement the proposed course by making it a part of their syllabi. Improvement in the standard of legal education will help in the development of rule of law.

4. Present Research

The present research is a thorough investigation aimed at measuring the existing linguistic adequacy of learners of law in Pakistan with reference to the specific roles they are required to perform in their academic and occupational legal settings so that their problem areas could be systematically identified and subsequently reported for recommending a course in legal English.

The research was carried out at the Center for International Legal Education (CILE), University of Pittsburgh School of Law (Pitt Law), as I stayed there for a period of one year as Fulbright scholar during the academic year 2003-04. Working under close supervision of Professor Ronald Brand and Professor Ann Sinsheimer at CILE, I received insights from the U.S. legal system, reviewed literature in the field of language of law with regard to curriculum development, constructed research tools and analyzed the data, and finally reported the recommendations.

PART II

5. Literature Review

In this part, I will review literature related to the language of law with a specific focus on features that are useful in developing a legal English course. The section begins with an introduction by taking into account the term language of the law or “legalese,” and then moves toward studies related to the written language of law. This is followed by a review of literature with regard to spoken language of law.

5.1 Introduction

Over the past three decades, there has been a dramatic expansion of interest in studying the language of the law. In applied linguistics, the main concern has been to design and teach language support courses for academic and professional legal purposes. The term “language of the law” or “legalese” encompasses a number of “usefully distinguishable genres” having communicative purposes they tend to fulfill in different academic, professional and specific social contexts.

The linguistic status of legalese is open to dispute among persons within the field of law and language. It is considered by some . . . to be a dialect in its own right. It can alternatively be viewed as a register of English, a form of jargon—that is—a speech variety restricted to an occupational group, or a form of diglossia, . . . diglossia being a distinct speech variety restricted to use on formal, public occasions, contrasting with speech varieties used for everyday purposes.¹

1. S. BERK-SELIGSON, *THE BILINGUAL COURTROOM: COURT INTERPRETATIONS IN THE JUDICIAL PROCESS* 295 (The University of Chicago Press 2002).

S. Thorne describes a main and two subordinate functions of legal language: the main function is *referential* (to convey information), whereas the subordinate functions are *conative* (persuasive), and *metalinguistic* (discussing language itself).²

5.2 *Written Language of the Law*

In this section, I will review literature related to written genres of legal English. Legal genres are defined in the following manner:

The highly institutionalized, and sometimes ritualized discourse of the law often follows regular patterns; organized sequences of elements which each play a role in achieving the purpose of the discourse.³

Some fundamental written genres in legal English are statutes (legislative writings), cases, law reports, law review journals and law textbooks. Below, these written genres are taken into account.

5.2.1 *Statutes or Legislative English*

D. Crystal and D. Davy stylistically analyzed the legislative English at various levels: graphitic and typographical, lexical, syntactic and phonological, among others.⁴ For graphitic and typographical levels, capitalization, spaces and numbering, etc. have been taken into consideration. Archaism, collocations and French and Latin influences are discussed for lexical features of legal language, whereas grammatical characteristics and sentence length etc. have been analyzed while highlighting the syntactic properties of language of the law. Further, the phonological level has been discussed in the context of utterances of legal texts written with special graphology of the discipline. The significance of the use of articles and linguistic conservatism are also the topics of discussion. Some general characteristics of language of the law are that it is “least communicative,” “subject-specific,” “all inclusive” and has “sub-varieties.”

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2. S. THORNE, *MASTERING ADVANCED ENGLISH LANGUAGE* (Macmillan 1997).
 3. J. Gibbons, *Language and the Law*, 286 *The Handbook of Applied Linguistics*, A. Davies and C. Elder (Eds.) (Blackwell Publishing, 2004).
 4. D. CRYSTAL & D. DAVY, *INVESTIGATING ENGLISH STYLE* (Longman 1969).

V.K. Bhatia demonstrates that legislative statements have “conventionalized communicative purpose mutually shared by the practicing members of the specialist community.”⁵ Also, it has been indicated that

the typical use of complex prepositions, binominal and multinominal expressions, nominalizations, the initial case descriptions, a large number and variety of qualificational insertions make syntactic discontinuities somewhat unavoidable in the legislative statements, and to a large extent, account for the discourse patterning that is typically displayed in such provisions.⁶

A great number of other studies and reports have also appeared on the problematic nature of legislative writing in general.

5.2.2. Cases

Besides legislative writing, another sub-variety of legal writing is cases. According to V.K. Bhatia,⁷ since precedence plays an important role in legal arguments and proceedings and also in legal decisions, legal judgments and case-descriptions inevitably form a major part of law students’ reading list. Moreover, students are not only supposed to have general comprehension of the case, they are to perform different tasks which are complex in nature. For example, they are to distinguish material facts from immaterial, understand the reasoning, understand subject specific vocabulary etc. R. Badger indicates that the most important task is to find the rule (*ratio decidendi*) from a case.⁸ Almost all the legal cases and judgments available to date, and there are millions of them, consistently display a typical discourse organization, which is unique to this genre.⁹

W. Burnham gives a detailed description of the relationship of legislative law with case law (judicial opinions) because different features of judicial opinions are juxtaposed with statutes.¹⁰ Moreover, there is a detailed commentary on the process of reasoning in judicial opinions.

5. V.K. Bhatia, *Cognitive Structuring in Legislative Provisions* 153 (Language and the Law, J. Gibbons (Ed.) (Longman 1994).

6. Bhatia, *supra* note 5, at 4.

7. V.K. Bhatia, *Textual-mapping in British Legislative Writing*, 6(1) *WORLD ENGLISHES* 1-10 (1987).

8. R. Badger, *Legal and General: Towards a Genre Analysis of Newspaper Law Reports* 22(3) *English for Specific Purposes* 249-63 (2003).

9. V.K. BHATIA, *ANALYSING GENRE: LANGUAGE USE IN PROFESSIONAL SETTINGS* (Longman 1993).

10. W. BURNHAM, *INTRODUCTION TO THE LAW AND LEGAL SYSTEM OF THE UNITED STATES* (West Group 2002).

Two basic types of legal reasoning are used with case law: deductive reasoning and analogical reasoning. Deductive reasoning takes case law “rules” and applies them in a manner similar to statutes. Analogical reasoning directly compares the facts of the prior precedent to the facts of the case to be decided.¹¹

The genre of case law has also been analyzed by a number of other writers as well.

5.2.3 *Law Review Journal*

The journal article is a common genre used in academic legal settings. C.B. Feak divides material published in legal journals into two categories: law reviews and law notes.¹² The difference between these two is noted in the following manner:

Law reviews, one kind of legal journal, are an interesting forum for academic legal scholarship. A typical review will contain several articles authored by scholars and or practitioners, reviews of books, and a small number of single-authored student written articles known as law review notes (henceforth Notes) Notes clearly have a lower status than do law review articles written by scholars and practitioners as evidenced by the fact that:

- they are placed at the back of the reviews;
- in some law reviews Note titles are in lower case, while titles of articles written by scholars and practitioners are in all capital letters;
- the name of a Note author, if provided at all, is often placed at the end of the Note rather than on the first page;
- most reviews do not provide bio-data for students, but do so for the scholars and practitioners.¹³

C.B. Feak focuses his study on an analysis of published student-written legal research papers, which can serve a model for teaching seminar paper writing.

11. BURNHAM, *supra* note 10, at 5.

12. C.B. Feak et al., *A Preliminary Analysis of Law Review Notes* 19 *English for Specific Purposes* 197, 220 (2000).

13. Feak et al., *supra* note 12, at 6.

5.2.4 Textbooks

Textbooks are most commonly used in pedagogic settings. Like other disciplines, textbooks of law have “instructional communicative orientation.” However, each discipline has some distinct characteristics as J.M. Swales indicates, “a commonly identified communicative act such as defining can have different discursual functions in different academic subjects as Science and Law.”¹⁴ V.K. Bhatia, commenting on legal textbooks, points out that special methodological and conceptual features of law require a different treatment of various commonly used communicative devices.¹⁵

Another interesting work on legal textbooks is that of D.U.W. Wickrama.¹⁶ His work indicates that within a legal textbook, there are significant variations in the rhetorical structuring. In fact, different parts of a case have different rhetorical structuring. Recently, a project titled “Improving Legal English: Quality Measures for Programme Development and Evaluation” was carried out at the City University of Hong Kong. The study concluded:

Although in recent years we have seen a significant increase in the development of resources for legal writing, very few of them are targeted at second language learners . . . , although certain aspects of the available books can be useful, most are generally unsuitable for use in such contexts. Three approaches are then offered for developing legal writing materials that will meet the criteria of suitability. First, the materials can be customized in various ways to meet the needs of second language users studying law in the medium of English. Second, the materials can adopt a more language and discourse-based approach. Third, rather than packaging materials exclusively in book form, they can be made available as a computer-mediated resource bank.¹⁷

5.3 Spoken Legal Language

Spoken legal language has always been of great significance as

. . . it is worth remembering that all legal systems have oral origins—the Roman legal system, the source of the most continental and Asian legal systems, was an oral system for most of the existence of the Roman empire; the common law system used in the

14. J.M. Swales *Definitions in Science and Law—evidence for subject-specific course component* 3(4) *Fachsprache* 106, 11 (1981).

15. Bhatia, *supra* note 7, at 5.

16. D.U.W. Wickrama, *Linguistic features of commercial law texts and their pedagogical implications*. M.Sc. thesis, LSU (University of Aston in Birmingham 1982).

17. C.N. Candlin et al., *Developing legal writing materials for English second language learners: problems and perspectives* 22(1) *English for Specific Purposes* 229 (2002).

English-speaking world has its origins in Germanic tribal law; Shariah, the Islamic legal system, developed in part from the orate system of desert Arabs—indeed the Prophet Mohammed (PBUH) was probably illiterate.¹⁸

W.M. O’Barr has found four varieties of spoken legal language in the courtroom.¹⁹ These varieties include: i) Formal Legal Language, ii) Standard English, iii) Colloquial English, and iv) Subcultural Varieties. The speaker, in fact, shifts from one variety to the other during his talk in professional legal settings in accordance with the requirement of the social context. Similarly, S. U. Philips found that judges change their style of speech keeping in view the situation and different steps in courtroom proceedings.²⁰

In fact, speakers in the courtroom, manipulate their speech by using certain linguistic devices:

... through a conscious or unconscious strategy, participants in courtroom proceedings try to phrase their questions and answers in such a way as to make themselves look better, and the opposing side worse. Thus, through a variety of verbal tactics, lawyers try to make their own witness look credible, sincere, and competent, while they attempt to make witness for the opposing side appear dishonest, unreliable, and in general, incompetent. Witnesses and defendants, in contrast, try to use verbal strategies to enhance their image before the judge or jury, and in a variety of subtle linguistic ways try to ward off the verbal demeaning of opposition in an effort to preserve a positive image.²¹

J. Gibbons points out that there is a growing debate concerning gender and language in the law, often showing an interaction between legal power and male-female power relations.²² G. Matoesian produced research in this area related to language and disadvantage before the law.²³ To find out the differences between speeches of male and female witnesses, research has also been carried out by W.M. O’Barr and J.M. Conley.²⁴ They have found that traits of speech previously considered to be characteristic of women’s style alone could be found in the speech of male and female witnesses alike. Further, they found that in the presence of these traits, the witness gave the impression of being less trustworthy than when his speech lacks these traits.

18. Gibbons, *supra* note 3, at 4.

19. W.M. O’BARR, *LINGUISTIC EVIDENCE: LANGUAGE, POWER AND STRATEGY IN THE COURTROOM* (Academic Press 1982).

20. S.U. Philips *Contextual variation in courtroom language use: Noun phrases referring to crimes*, 49 *INTERNATIONAL JOURNAL OF SOCIOLOGY OF LANGUAGE* 29, 50 (1984).

21. BERK-SELIGSON, *supra* note 1, at 3.

22. Gibbons, *supra* note 3, at 4.

23. G. Matoesian, *You were interested in him as a person? Rhythms of domination in the Kennedy Smith Rape trial*, 22(1) *LAW AND SOCIAL INQUIRY* 55, 91 (1997).

24. W.M. O’Barr & J.M. Conley, *When a juror watches a lawyer* 3 *Barrister* 8, 11 (1976).

W.M. O'Barr and his colleagues use the term "powerless" style for the speech having such type of traits.

According to S. Berk-Seligson, an additional discourse variable present in the speeches of witnesses or defendants who are testifying is "narrative versus fragmented" testimony style.²⁵ Persons testifying in narrative style will answer a question with a relatively long answer, whereas persons using fragmented style will answer in brief, non-elaborated responses.

Whether a witness will answer a question in fragmented or narrative style is largely controlled by the interrogation attorney. Lawyers usually allow their own witnesses to answer in narrative style, but restrict witness for opposition from doing so. This practice is based on the implicit assumption of lawyers that jurors have a higher regard for witnesses answering in narrative style and have a poorer opinion of witnesses who testify in fragmented style.²⁶

W.M. O'Barr found that witnesses who testified in narrative style were more competent and socially dynamic than witnesses who testified in fragmented style.²⁷

Another stylistic variant in witness testimony is "hypercorrect" speech.²⁸ W.M. Hypercorrect style considers the frequent errors in grammar and vocabulary made by a witness in an attempt to speak formally.²⁹ This style, when contrasted with a formal testimony style devoid of such errors, was associated with mock juror's negative perceptions of the witness's convincingness, competence, intelligence, and appearance of being qualified.

The coercive nature of courtroom questions has also received considerable attention from linguists.³⁰ Many researchers argue that questions in a courtroom vary according to the degree in which they coerce or constrain an answer.³¹ They have given an order of coerciveness in different types of questions.

The impact of the interpreter on court talk is another area of research in spoken legal language. Many researchers have documented studies related to

25. BERK-SELIGSON, *supra* note 1, at 3.

26. BERK-SELIGSON, *supra* note 1, at 3.

27. O'BARR, *supra* note 19, at 7.

28. BERK-SELIGSON, *supra* note 1, at 3.

29. O'BARR, *supra* note 19, at 7.

30. Gibbons, *supra* note 3, at 4.

31. B. Danet, 'Baby' or 'fetus'? *Language and the Construction of reality in a manslaughter trial* 32 *Semiotica* 187, 219 (1980b); B. Dannet & N. Kermish, *Courtroom questioning: A sociolinguistic perspective*. Psychology and Persuasion in Advocacy, L.N. Massery (Ed.). (National College of Advocacy 1978).

interpreting in the courtroom. Their research shows the extreme difficulty of providing accurate interpreting in courtroom contexts, where even minor inaccuracies may lower the standard of justice. In this context, “the role of the interpreter, as performed currently in American courthouses at every judicial level, often serves to alter the pragmatic intent of speakers in the course of on-the-road judicial proceedings.”³² In addition, Berk-Seligson states that:

Clearly adequate resourcing is a basic first step in resolving this issue, with more training for both lawyers and interpreters, but the very nature of interpreting and translation is that it is not an exact process—a consequence of the differences between human languages and cultures.³³

PART III

This part deals with research methodology. In this part, I will take into account research questions, data collection tools, sample population, collection of data, and ways to analyze the data.

6. Research Methodology

The purpose of this research was to recommend a legal English course for learners of law in Pakistan in response to their language problems. Therefore, the major research question under investigation was:

What level of linguistic adequacy do the learners of law in Pakistan have for performing tasks related to their academic and occupational roles?

The subsidiary questions were:

- 1) What level of linguistic adequacy do the learners of law have in performing tasks related to reading skills in academic and occupational settings?
- 2) What level of linguistic adequacy do the learners of law have in performing tasks related to writing skills in academic and occupational settings?
- 3) What level of linguistic adequacy do the learners of law have in performing tasks related to speaking skills in academic and occupational settings?
- 4) What level of linguistic adequacy do the learners of law have in performing tasks related to listening skills in academic and occupational settings?
- 5) How important is it to have adequate command of English for academic and occupational purposes?

32. BERK-SELIGSON, *supra* note 1, at 3.

33. BERK-SELIGSON, *supra* note 1, at 3.

To answer the research questions, empirical research was conducted through a survey. I followed the method of purposive sampling. Four questionnaires were constructed for four population groups: teachers of law, recent law graduates, senior lawyers and judges. Data was collected from typical academic and professional legal settings in Pakistan. Piloting was done before the actual administration of questionnaires. For close-ended items of the questionnaires, data was analyzed quantitatively by using SPSS (Statistical Package for Social Sciences), whereas open-ended questionnaires were analyzed qualitatively by reviewing responses, grouping related responses and identifying common themes. The respondents were provided different options for open-ended items of the questionnaires. These options provided the respondents a range of two extreme situations with an addition of an option for “no opinion.” Three types of options were given in the questionnaires:

1. “extremely adequate,” “adequate,” “inadequate,” “extremely inadequate” and “no opinion.”
2. “extremely important,” “important,” “somewhat important,” “not important and “no opinion.”
3. “less than 25%,” “25% to 50%,” “50% to 75%,” “more than 75%” and “no opinion.”

PART IV

Part IV deals with the findings of the study. The overall findings have been reported first, which is followed by a summary of the following.

7. Overall Findings

The details of the findings have been presented in the dissertation that I completed during my stay at Pitt Law. In this article, I will provide the overall findings by taking into account the following:

1. The broader categories of the options: “adequate” or “inadequate,” “important” or “not important” and “less than 50%” or “more than 50%”
2. The summary of the qualitative findings of the study

The perceptions of the three population groups’ will be presented together in the form of combined groups’ perceptions, whereas perceptions of the judges will be presented separately as the questionnaire that was meant for judges differed significantly from the rest of the questionnaires in terms of content and design.

To provide answers to the research questions, I will begin with the major research question:

A. What level of linguistic adequacy do the learners of law in Pakistan have for performing tasks related to their academic and occupational roles?

The details of the findings revealed that learners' command of English falls short of the mark: they lack the required linguistic skills and sub-skills to perform academic and occupational tasks in legal settings. The level of incompetence varies: the more complex the text/task, the higher the level of incompetence.

Below, the subsidiary questions have been taken under consideration:

1. What level of linguistic adequacy do the learners of law have in performing tasks related to reading skills in academic and occupational settings?

The members of the legal discourse community provided information related to the level of linguistic adequacy of learners of law in the skills of reading of cases, statutes and textbooks/law review journals. For reading of cases, the findings related to the teachers, the recent graduates and the senior lawyers reveal that majority of learners have inadequacies in six sub-skills out of a total of eight. The most difficult sub-skill to judge is whether a particular case is analogous or distinguishable for a pending case. The next most difficult sub-skill is finding the rule. In both these sub-skills, more than 80% respondents were found to be inadequate. As only two sub-skills, understanding procedural history and understanding citations, were perceived to be adequate by the majority of respondents, the general impression is that learners of law have inadequate competence in reading comprehension of cases. The reason why learners have adequacy in only two sub-skills and inadequacy in the rest of the sub-skills is arguably simple: understanding procedural history and citation are much easier tasks, as the language used for procedural history and citation is not complex. The rest of the tasks included in the process of reading of cases are complex because of the complexity of language and thought.

According to the perceptions of judges more than 50% lawyers that appeared in their courts had inadequate competence in reading of cases. This was stated by 82% of the judges who provided information in this study. The qualitative analysis revealed that the task of reading the cases was considered

to be difficult and boring. Moreover, students were not provided with any guidance in this area. Therefore, their tendency was to simply read summaries of the cases even though the data also revealed that there was a realization that reading cases is essential in a common law country.

For reading of statutes and textbooks/law review journals, according to the perceptions of the teachers, the recent graduates and the senior lawyers, it is evident that the level of adequacy for reading of textbooks, law review journals and statutes is not sufficient. 81.1% of the respondents perceive that learners have inadequate ability in understanding the complex structure of statutes. With regard to applying statutes to cases, 74.4% of the participants feel that learners have inadequate skill. The judges also had a similar opinion in this context as majority of judges (63.4%) were of the opinion that lawyers who appear in their courts have inadequate ability to apply statutes to cases.

As far as reading of textbooks and law review journals is concerned, 58.6% of respondents believed that learners are inadequate. While lower than the findings related to case reading, this still represents a majority of respondents who feel that these skills are unacceptable. The qualitative analysis findings reveal that reading of textbooks and law review journals is comparatively easier because the language of textbooks and law review journals is not as complex as the language used in statutes. Keeping in view the complex language of statutes, the respondents feel that special training is required to understand such a language. I concluded that skills related to the reading of statutes, textbooks and law review journals are not adequate.

2. What level of linguistic adequacy do the learners of law have in performing tasks related to writing skills in academic and occupational settings?

The findings related to teachers, recent graduates, and senior lawyers reveal that learners have inadequate writing skills with reference to academic and occupational legal settings. Out of the four sub-skills taken under consideration, the mechanics of writing is an area that is perceived to be the most difficult as 85% of the respondents felt that learners have tremendous inadequacy in this area. The other three areas of organizing thoughts, appropriate formatting, and appropriate use of legal terminology also cause problems for the learners as in all the cases more than 80% respondents feel that learners have inadequate ability in these areas. This means that in all the four areas of writing, more than 80% of the respondents feel that learners have inadequate competence.

The fourth population group, judges, also provided information about lawyers' linguistic adequacy related to the documents that lawyers submit in the courts. Like the other three groups, an overwhelming majority of judges (80%) perceived that more than half of all lawyers had inadequate competence in mechanics of writing. Similarly, 79.8% of judges believed that more than half of all lawyers had inadequate ability with regard to the use of legal terminology in writing. For organization of legal documents to be presented in courts, 72% judges perceived that more than 50% lawyers had inadequate ability. Moreover, 62% judges were of the opinion that more than 50% lawyers have inadequate competence with regard to appropriate formatting of legal documents that are presented in courts.

The qualitative data revealed that learners have inadequate competence in mechanics of writing. According to the respondents, the main reason for this is obsolete teaching methodology. The other main problem reported by the respondents was a lack of clarity. To read unclear documents, extra effort is required on the part of the reader which wastes already scarce time. Inadequacy in the use of subject-specific language was also reported.

3. What level of linguistic adequacy do the learners of law have in performing tasks related to speaking skills in academic and occupational settings?

According to the perceptions of two groups, teachers of law and recent graduates, learners have inadequate skill in spoken English in various academic situations, including asking questions of teachers, giving presentations, group or paired work, and mock oral arguments. 67.6% of the respondents felt that learners have inadequate ability in asking questions of teachers and 76% identified presentation skills as inadequate. Similarly, 78.3% of the respondents are of the opinion that learners have inadequate speaking skills for group or paired work. A greater majority (83.5%) felt that learners lack good speaking skills in mock oral situations. Overall, a vast majority perceives that learners are inadequate in speaking English in academic legal settings.

Commenting on lawyers' difficulty in speaking English in courtrooms, a majority of judges i.e., 75.6% believed that more than 50% lawyers have inadequate competence with this regard. Analysis of the qualitative data reveals that students have inadequate ability in this skill, as it has never been taught despite the fact that spoken English creates a good impression in addition to its practical utility in real life. One of the reasons for inadequacy

in this skill is lack of confidence. Qualitative and quantitative findings correlate with each other.

4. What level of linguistic adequacy do the learners of law have in performing tasks related to listening skills in academic and occupational settings?

Five areas of listening were taken under consideration: listening to lectures in the class, listening to presentations, listening to fellow students in group/pair work, listening in mock oral arguments, and listening in occupational settings. The analysis revealed that the majority of respondents believed that learners had inadequate abilities in three areas of listening: listening to lectures in the class, listening to presentations and listening in mock oral arguments.³⁴ However, listening skills were considered to be adequate for listening in group/pair work, and listening in occupational situations.³⁵ Listening in the courtroom was analyzed separately as the specialized questionnaire for judges. The analysis revealed 75.8% judges felt that most lawyers were at least adequate in their ability to listen in the courtroom. The qualitative analysis revealed that difficulty in listening is dependent on the background knowledge of the topic under discussion and that learners face difficulty in listening with concentration.

5. How important is it to have adequate command of English for academic and occupational purposes?

Perceptions of all the four population groups (teachers of law, recent graduates, senior lawyers and judges) have been taken under consideration in this context. According to the findings, all the population groups believe that English plays an important role in academic and professional legal settings. However, according to the qualitative findings with reference to general comments of the respondents, learners' command of English falls short of the mark. To overcome this problem, as the qualitative findings suggest, legal English courses should be conducted at various platforms.

34. 61.7% of respondents believed that learners had inadequate ability in listening to lectures in the class. 52.3% felt that learners' were inadequate. 71.1% of the respondents believed that learners had inadequate skill of listening in mock oral argument.

35. 64.4% of respondents said that learners had adequate ability in listening to fellow students in group/pair work. 73.6% of respondents felt that learners had adequate skills of listening in occupational legal settings.

8. Summary of the Findings

From the findings of the study, the following main points can be deduced:

1. English plays an important role in almost all academic and professional legal settings.
2. Learners' competence in English falls short of the mark: they lack the required linguistic skills and sub-skills for performing different academic and occupational roles in legal settings.
3. The level of incompetence varies: the more complex the text/tasks, the higher the level of inadequacy.
4. A specific course for English is required to address the problem.

PART V

9. Rationale for recommending the Course

To recommend an outline for the proposed course, I followed certain steps to provide a rationale for my syllabus design. First, in the light of the findings of the needs analysis, objectives for the course were set. Next, keeping in view strengths and weaknesses of different approaches toward syllabus design, an eclectic approach to the proposed course was selected. Finally, taking insights from the studies in the language of law (as reviewed in *Part II*), and taking into account the findings of the needs analysis, I made decisions with regard to specification, sequencing and grading of course contents.

10. Recommended Course Outline

This section contains an outline of the proposed course of legal English. There are 13 units in total. For each unit, first, there is a description of objective(s) and information related to topics to be included has been provided. The course outline can be found in the attached Appendix A.

11. Guidelines for Implementation

In section 10, I have recommended a course for learners of law in Pakistan. The course is based on the potential linguistic needs of the learners, which have been investigated in this research project. The course is comprehensive for law students and recent law graduates who have recently entered the profession to practice law. Public and private universities in

Pakistan can implement this course to improve the standard of legal education of their institutions. Moreover, the course could be conducted at various other platforms like bar councils, judicial academies, provincial and federal law departments and High Courts and the Supreme Court. Private law firms can also conduct legal English courses for their employees.

For LL.B. students, the recommended course should be started in the first year of their legal studies and can go until the third year of their program. As the LL.B. program is offered at a great number of places in Pakistan and different types of legal institutions have different academic calendars, different examination systems and different resources, therefore, each institution/university can make decisions about the number of units to be offered in a year. It is better to follow the order of the units in the proposed course as the units are arranged keeping in view certain considerations. However, teachers can rearrange the order of the units, in case they desire to do so for certain preferences and priorities and the availability of resources. Teachers can also start more than one unit simultaneously depending upon the choices they have in setting their timetables for the classes. For example, unit 1, which relates to structures, and unit 3, which is concerned with reading, can go side by side.

Keeping in view the level of linguistic adequacy of particular groups of learners, and the availability of resources, certain units could be omitted from the teaching agenda. For example, Unit 1, which relates to structures, can be omitted in some cases where learners' linguistic background is very good and they do not need practice in basics related to the structure of English. Similarly, institutions that have limited resources can choose to address the learners' present academic needs by omitting the units that deal with future occupational needs. For example, the unit that provides practice in writing an office memorandum can be omitted, as it is required in a law firm, where lawyers perform occupational tasks but is less relevant to academic needs of current students.

For each unit, communicative teaching methodology is recommended; therefore, teachers who have training in ELT can teach the proposed course. However, ELT teachers will have to work hard to prepare their lessons, as they need to be clear in their understanding of legal genres that are complex in nature. Moreover, teachers will have to design and adapt authentic materials from different sources like available books on legal English, legal textbooks, CCP (Civil Procedure Code), newspapers, cases and statutes etc. as no specific textbook is available that fully caters to specific needs of law students in Pakistan.

PART VI

12. Implementation and the Enforcement of Rule of Law: An Evaluation

Right after the completion of the project, the recommendations were sent to the decision making bodies in Pakistan: public universities, private law colleges, the Higher Education Commission of Pakistan, Judicial Academies and Bar Councils etc. Presently, this course is offered at a number of institutions of legal education in Pakistan. Some other institutions are in the process of getting approval from different decision making bodies to make the course a part of the curriculum. During the process of implementation, the legal discourse community has raised some issues regarding the implementation of this course. Being member of some of these decision making bodies like the Legal Education Reforms Committee of the Bahauddin Zakariya University the Board of Studies of the University Law College, I will report the perceptions of the stakeholders with regard to the implementation of the recommended course.

As far as the views of judges are concerned, there is strong support for the implementation of this course. Judges believe that the standard of legal education needs to be improved to enforce the rule of law. According to their observations, recent law graduates that appear in their courts do not have adequate command of the English language. A very senior judge of the Pakistan Supreme Court, Mr. Justice Tassadaq Hussain Jilani, who has been a member of the Legal Education Reforms Committee of the Bahauddin Zakariya University, very strongly argued in favor of English medium of instruction for legal education, and compulsory legal English course for law students. The Bahauddin Zakariya University has implemented this course from the fall semester of 2006.

As far as the perceptions of senior lawyers are concerned, there has always been a strong support for the implementation of this recommended course at various platforms. Some very senior lawyers are members of the Legal Education Reforms Committee of the Bahauddin Zakariya University. We have a full support of these lawyers as they believe that to enforce the rule of law, it is mandatory to improve our legal education system. Improvement in legal English is a part of reforms in the society.

Government officials in different decision making bodies strongly support the implementation of the recommended course to improve the standard of legal education. As the government officials represent the government's point of view, the government is very keen to bring about a healthy transformation of society in the post 9/11 world. The government is aware that Pakistan is at

risk and that establishing the rule of law is a key to success in the fight against terrorism. In this context, the government of Pakistan has taken initiatives to improve the standard of legal education. For quality assurance in legal education, the government of Pakistan has decided to open up a number of law universities where English will be the compulsory medium of instruction, and legal English courses will be offered to all law students.

Perceptions of the owners of private institutions of legal education are worth mentioning. There is difference of opinion in private educational institutions, as some private owners are in favor of the recommended course, but most oppose its creation. Those who favor it argue that quality assurance in legal education is a must. As the language of law is English, English should be the only medium of instruction for legal education. Thus, legal English courses should be implemented to equip the students with the skills they require in their academic and professional settings. On the other hand, some representatives of private law colleges and decision making bodies oppose the implementation of the recommended course. They argue that law should not be taught in English; rather Urdu should be the medium of legal education as Urdu is our national language. Another argument they forward is that every one should know law, whether he knows English or not. The reason why the private owners of law colleges are against English as a medium of instruction is very clear: studying law in Urdu is easier for the majority of students. To sustain and further expand their businesses, they attempt to admit maximum number of students in their institutions even at the cost of a quality education.

Overall, the course has been receiving significant appreciation as it aims at improving the standard of legal education which is a must to bring a healthy change in a society, and to enforce rule of law.

APPENDIX A

Unit 1: Structures

a) Objective: After the completion of this unit, learners will be able to write correct English in terms of grammar, punctuation, spelling and other mechanics of standard writing in academic and professional legal settings.

b) Topics: All the major topics related to Standard English writing like parts of speech, voice (active & passive), narration (direct & indirect), spelling techniques, punctuation etc.

Unit 2: Vocabulary

a) Objective: After the completion of this unit, learners will be able to understand the meaning of difficult words used in legal settings.

b) Topics: judging the meaning from the context, prefixes, suffixes, technical terms, common terms with an uncommon meaning, words having Latin, French or Old English origins, polysyllabic words, unusual prepositional phrases, combination of words having different sources, formality: *will, shall* etc.

Unit 3: Reading

a) Objective: After the completion of this unit, learners will be able to read the following adequately: law related information in newspapers, legal textbooks, law review journals, cases and statutes.

b) Topics: skimming, scanning, reading for main idea and inferences, techniques related to reading of cases and statutes.

Unit 4: Case Briefs

a) Objective: After the completion of this unit, learners will acquire the skill to synthesizing cases.

b) Topics: purpose and format of a case brief. Synthesizing Cases.

Unit 5: Organization in Writing

a) Objectives: After the completion of this unit, learners will be able to
1) produce written texts in a coherent manner; 2) edit their written texts adequately.

b) Topics: 1. Brain Storming; 2. How to write a good paragraph?; 3. Editing.

Unit 6: Speaking

a) Objective: After the completion of this unit, learners will be able to speak adequately in academic settings.

b) Topics: Major steps in preparing talks effectively: judging the audience, researching the topic, strategies for confidence building, voice quality, pronunciation, English stress and intonation system etc.

Unit 7: Listening

a) Objective: After the completion of this unit, learners will be able to become good listeners in academic and professional legal settings.

b) Topics: 1. Be prepared to listen; 2. Listen with positive attitude; 3. Listen to understand; 4. Focus your attention; 5. Concentrate on context; 6. Take notes; 7. Curb the impulse to interrupt; 8. Summarize and evaluate.

Unit 8: Mock Trial/Oral Advocacy

a) Objective: After the completion of this unit, learners will be able to perform adequately in mock trials and actual courtroom.

b) Topics: 1. Responsibilities in oral argument; 2. Purpose of oral argument; 3. Mechanics of oral argument; 4. Preparation of oral argument; 5. Techniques of Oral Advocacy.

Unit 9: Advanced Legal Writing skills

a) Objective: After the completion of this unit, learners will be able to write in an effective style on writing (integrated with reading).

b) Topics: 1. Omit surplus words; 2. Use base verbs, not nominalizations; 3. Prefer active voice; 4. Use short sentences; 5. Arrange your words with care; 6. Avoid language quirks.

Unit 10: Office Memorandum

a) Objective: After the completion of this unit, learners will be able to write office memorandum adequately.

b) Topics: 1. Purpose of an office memorandum; 2. Audience for an office memorandum; 3. Steps before writing an office memorandum; 4. Form and content of an office memorandum.

Unit 11: Plaints

a) Objective: After the completion of this unit, learners will be able to write complaints adequately.

b) Topics: 1. Purpose of a complaint; 2. Steps in writing a complaint; 3. Editing a complaint.

Unit 12: Written Statement

a) Objective: After the completion of this unit, learners will be able to write written statements adequately.

b) Topics: 1. Purpose of written statement; 2. Steps in writing a written statement; 3. Editing a written statement.

Unit 13: Miscellaneous Genres:

a) Objective: After the completion of this unit, learners will be able to write miscellaneous legal documents adequately.

b) Topics: 1. Complaints; 2. Bail Application; 3. Acquittal Application; 4. Application for medical examination; 5. Application for expert opinion; 6. Application for summoning of records.