ENGLISH FOR LEGAL PURPOSES - "AN UNCULTIVED CORNER OF THE ESP FIELD"?

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Abstract: *The aim of this article is to offer a general perspective on this "uncultivated corner" of ESP, to emphasize the importance of ELP within the general framework of ESP and to summarize some of its most important characteristics.*
Key words: *juridical writing, ELP, specialized languages.*

Specialists have always considered ESP as a distinct activity within ELT and the research in this field as a part of applied linguistic research, which generally retained its emphasis on practical results. That is why it was emphasized that ESP lacks an underlying theory: "It is, however, interesting and significant that so much of the writing has concentrated on the procedures of ESP and on relating course design to learners' specific needs rather than on theoretical matters" (DUDLEY-EVANS, ST. JOHN, 2007: 1).

The definitions and methods of ESP vary, but the most recent theories suggest that: "In more general ESP classes the interaction may be similar to that in a General Purpose English class; in the more specific classes, however, the teacher sometimes becomes more like a language consultant, enjoying equal status with the learners who have their own expertise in the subject matter" (DUDLEY-EVANS, ST. JOHN, 2007:2).

As ESP is focused on practical outcomes as mentioned before and among the absolute or variable characteristics are: the fact that it is designed to meet specific needs; it is related to or designed for specific disciplines; it is likely to be designed for adult learners, intermediate or advanced students, it should be centered on the language (grammar, lexis, register), skills discourse and genres appropriate to these activities (cf. DUDLEY-EVANS, ST. JOHN, 2007: 3).

The ESP classification by professional area shows that English for (Academic) Legal Purposes is one of the branches of English for Academic Purposes, which consists of English for (Academic) Science and Technology, English for (Academic) Medical Purposes and English for Management, Finance and Economics. Thus, one can distinguish between ELP as part of English for Academic Purposes (EAP) and English for Occupational Purposes (EOP) that includes professional purposes in administration, medicine, law and business.

When discussing a more specialist branch of ESP, such as Legal English, we should make the difference between the needs of Law students, or practicing lawyers because "each one of these groups needs awareness of and ability to use different genres" (DUDLEY-EVANS, ST. JOHN, 2007: 149).

ELP is divided into three main areas: academic legal writing, consisting of legal textbooks and research journals; juridical writing, consisting of court judgments, case-books and law reports, whose purpose is to report the proceedings of the court and the decision of the judge and legislative writing, consisting of Acts of Parliament, statutory instruments, contracts, agreements, treaties, documents that are used to legislate (cf. BHATIA, 1983: 2).

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Researchers also suggest that there are three types of legal documents: pleadings, petitions, orders, contracts, deeds and wills are operative legal documents – they create and modify legal relations; judicial opinions, client letters and office memoranda are expository documents; briefs to a court and memoranda of points and authorities are persuasive documents (cf. TIERSMA, 2000)

Two main genres, legal cases and legislative writing are pointed out, genres whose intertextuality is extremely obvious. Bhatia (1987 apud DUDLEY-EVANS, ST. JOHN, 2007 : 50) argues that the principal moves in a legal case are: 1. The Facts; 2. The Argument of the judge including discussion of earlier cases; 3. The Principle of law deducible from the case; 4. The Decision of the judge. Researchers have clearly underlined the reciprocal influence between the variety of ways in which statements can be qualified and the complexity of the language.

English for Legal Purposes is a special language, for which there is no single and clear definition. Mention should be made of the following opinions: 1. "Special languages are semi-autonomous, complex semiotic systems based on and derived from general language; their use presupposes special education and is restricted to communication among specialists in the same or closely related fields" (SAGER et al., 1980); 2. "Strictly speaking, the language of law does not exist by itself but rather only as a part of the French language, and it consists of the vocabulary of law and undoubtedly, of some particular syntactic constructions" (REY, 1976 apud CABRÉ, 1999).

T. Cabré (1999: 63) pinpoints two cases of specialization: by subject field and by pragmatic circumstances, such as users, type and occasion of communication, arguing that the reasons are very clear: "scientific fields such as experimental sciences, mathematics, social sciences, economics and law, technical fields like engineering, construction and communications, specialized activities like sports, commerce and finance, all generate texts that diverge to some extent from the texts considered typical of general language", but "Our daily existence is full of contexts that are specialized to one degree or another, even though this everyday quality makes it more likely for the specialization to go unnoticed".

Sager (et al., 1980 apud CABRÉ, 1999: 64) considers that special languages are used in communication only by specialists: "Special languages, or more precisely special subject languages are usually thought of as the means of expression of highly qualifies subject specialists like engineers, physicians, lawyers, etc. and are often derogatively referred to as "jargon".

Three features seem to be shared by scientific and technical communication generated from special languages. These are: conciseness, the predominance of nouns and nominal groups, the preference for written language over oral language and the use of symbols from other semiotic systems (cf. CABRÉ, 1999: 70-71).

The most important differences in the case of specialized languages are at the lexical level, as they are specific in the terminology they use. EST is considered to be the most specialized branch of ESP. The study of EST has shown that the more specialized a language, the more restricted its number of users and the more international its units and rules will be (i.e. biological terminology is made up of many terms coming from Latin and Greek, both in Romanian and English).

Making a parallel between a general language text and a special language text, Cabré (1999: 71-73) asserts that the greatest differences are found in the vocabulary and identifies three groups of lexemes: 1. general language lexical items; 2. Special lexical items that can be attributed to a borderline area between general language and special

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language and 3. lexical items specific to special texts. On the other hand they abound in morphological structures based on Greek or Latin formatives; abbreviations and symbols; nominalization based on verbs and straightforward sentence structure with little complex subordination.

In the scientific and technical texts there is "a tendency towards impersonalization and objectivity" by using among other elements: the present tense, short sentences, frequent use of impersonal formulae and avoidance of unnecessary redundancy (DUDLEY-EVANS, ST. JOHN, 2007: 75).

As far as Legal English is concerned, most of the features of Legal English can be regarded as historical relics but they serve to create and solidify group cohesion within the profession.

Impersonal constructions are very often used. The first and second person pronouns (*I* and *you*) are to be avoided: "Using the third person in statutes does make some communicative sense (as in *Sex offenders shall register with the police...*) because the statute "speaks" not only to sex offenders, but to the police and the courts; you might therefore be inappropriate or ambiguous. Elsewhere (as in the tendency of judges to refer to themselves as *the court* rather than *I*) it creates an impression of objectivity and authority, thus helping to legitimate the legal system. Multi-judge panels seem less reluctant to use *we*, and will even use this pronoun to refer to a decision made by their predecessors long ago. Here, the first person stresses the continuity and perceived timelessness of the law" (TIERSMA, 2000).

The use of passives is known to be a feature of ESP in general, offering that aura of objectivity and authoritativeness to those in the juridical field; this may explain why they are common in court orders and less common in contracts, where the parties must be mentioned.

The use of short sentences is not a characteristic of Legal English as studies show that sentences are quite a bit longer, with more embeddings, which make them more complex often separating the subject from the predicate and subsequently reducing comprehension:

"An offender may also be placed on probation, when he is required to be of good behavior and to comply with certain conditions (which include keeping in regular touch with a probation officer who supervises his progress), failing which he may be sentenced for the original offence" (*Britain in brief*, apud OPRESCU, 2003: 33).

The same holds true in the case of redundancy. Lawyers tend to use "wordy and redundant phraseology, ponderous phrases: *at slow speed* instead of *slowly; subsequent to* instead of *after*) though there are situations in which legal language is "highly compact or dense", so that legal language is not monolithic, but can vary substantially depending on the situation. Furthermore, the repetition of nouns is a necessary redundancy in legal language: "One means of gaining precision is to repeat nouns (e.g., *player*), rather than using a pronoun (e.g., *he*) after a person or thing is introduced. Pronouns can sometimes have ambiguous reference, so this technique can indeed enhance precision. Lawyers, however, avoid pronouns almost routinely, even where no ambiguity is possible. Avoiding pronouns does have an unintended benefit: it reduces the use of sexist language" (TIERSMA, 2000).

All special languages have constructions, phraseological units that do not correspond to established concepts and are neither phrasal terms nor totally free syntactic formations (administrative law: *propose an amendment, provide documented proof, fill out a form, adjourn a session*) (Idem : 91).

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It is a well-known fact that French was adopted in England as the primary language of the law. Following the example of French, where the adjective is placed after the noun it determines, a few such combinations are still common in Legal English: *attorney general; court martial; letters testamentary; malice aforethought; notary public; solicitor general.* Though the adjectives grand and petty come from French and are used in Legal English, their place is according to the English rule and as in modern French, they precede the nouns: *grand larceny, grand theft auto, petty theft, petty offence* (cf. TIERSMA, 2000: 30). The use of Latin and Law French for legal purposes gradually declined, and in 1730 stopped being the language of law.

The Anglo-Saxons had no distinct legal profession, but they created a type of legal language whose remnants are still present today: *bequeath, goods, guilt, manslaughter, murder, theft, thief, witness.* The last term comes from the word for "*know*" (witan) and it originally meant "*knowledge*" or "*evidence*"; today it is preserved in expressions as well as in an archaic phrase used by lawyers: *to wit* (cf. TIERSMA, 2000: 11). Words like *herewith, thereunder,* and *whereto* are also legal archaism.

Legal slang is also used, being shorter and more efficient than formal language. Examples include: *rogs* for interrogatories, *TRO* for temporary restraining order.

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