

Reading Comprehension of Legal Texts: An Analysis of the Influence of Lexico-grammatical Features, Domain Knowledge, and Text Structure

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ABSTRACT

Developing proficiency in reading legal texts is a requirement for students to obtain a law degree. Researchers on legal reading skills and novices' cognitive challenges consider comprehension of legal texts consists of three main components: 1) lexico-grammatical features, 2) domain knowledge, and 3) text structure. The aim of this study is to present empirical evidence on how lexico-grammatical features, domain knowledge and text structure affect the way expert and novice readers read legal genres. The studies presented that expert readers interpret legal texts by analyzing lexico-grammatical patterns and their contextual meanings. They use domain knowledge and text structure to identify elements such as parties, court, and rulings, while reading with purpose-driven objectives. These findings provide valuable recommendations for developing legal reading materials that enhance learners' comprehension, improve their ability to interpret complex legal expressions, and support reading comprehension. The results can be applied to legal writing and education courses, offering a clear guide for planning curricula and materials that overtly instruct the cognitive processes employed by expert readers.

Keywords: lexico-grammatical features, domain knowledge, text structure, reading legal discourse

INTRODUCTION

Turow, a first-year law student at Harvard University, compared reading cases to "Something like stirring concrete with my eyelashes" (Lundeberg, 1987, p. 409). Similarly, Christensen (2007) presents "If we think back to our own first encounter with a judicial opinion, the text was confusing; the structure was mystifying; and the terms were unfamiliar" (p. 2). Specificity of legalese causes difficulties for novice readers in comprehending arguments in a legal text. Ariffin (2014) investigated reading legal cases among law students in a Malaysian public university and found that despite the training given to the students, they still face many problems in acquiring how to read legal cases due to specific generic features.

Law schools should pay attention to developing novice law students' legal reading skills as reading proficiency required is a prerequisite for students to successfully obtain a law degree. Novice law students need adequate training in how to read legal cases, statutes, articles and other legal texts as legalese differs significantly than General English. The most common assumption of legal lecturers is that students already possess skills required for reading legal genres when they enroll in university (Ariffin, 2014 and Ariffin et al., 2014). This attitudinal fallacy was first called as "Skill Development Assumption" by Startman (1990). Besides, Morgan-Thomas (2012) found that many students entering universities today have severe deficiencies in reading and critical thinking skills, which prove to be 'persistent stumbling blocks' for students as they encounter assignments that demand application of those essential skills. As legal reading materials and the purpose of reading are different, novices always find reading legal texts a difficult experience.

One of the most essential skills for law students who aim for success in law is the ability to read, reason and analyze legal cases (Ariffin, 2014, p.109). Also, they should develop the ability to read long judgments and statutes. Startman (1990) also claims that legal thinking involves unique social and rhetorical problem-solving skills, not required in ordinary arguments. "Words are tools for lawyers, who must be able to forge words into consequential discourse" (Deegan, 1995). Novices need to do more than simply "think [...] like a lawyer;"

they need to “read and write like a lawyer” (Lundeberg, 1987; Deegan, 1995). According to Steel et.al, (2017) “Legal analysis is built on, and built with, words; legal rights and duties are expressed in words” (p.187). All these aspects make reading comprehension of legal genres a challenging task for law students.

Researchers on legal reading skills and novices’ cognitive challenges (i.e. Lundeberg, 1987, Deegan, 1995; and Christensen, 2007) consider comprehension of legal texts consists of three main components: 1) lexico-grammatical features, 2) domain knowledge, and 3) text structure. Legal texts contain specialized expressions known as lexico-grammatical features. Additionally, reading legal texts requires domain specific knowledge, the background knowledge that a reader brings to the text. Furthermore, the organization of legal texts and the conventions guiding the arrangement of information within legal texts can make reading legal texts difficult for novices. However, there seems to be a scarcity of research that synthesizes empirical findings on lexico-grammatical features, domain knowledge and text structure that make reading legal genres challenging for novices. Therefore, this study presents a synthesis on prior research on the three aspects and how they affect the way expert and novice readers read legal genres. The findings present strategies used by expert readers that can be useful to develop materials to improve law students’ proficiency in reading legal texts.

LITERATURE REVIEW

Reading legal genres demands specialized skills integrating linguistic, cognitive, and disciplinary knowledge to understand a particular legal genre. This study is based on genre theory that does not merely examine genres as just text types such as narrative, argumentative etc., and considers genre as a more social construct which is influenced by individual use. Miller’s (1984) notion of “genre as a social action” defines genre not in terms of “the substance or the form of discourse, but on the action, it is used to accomplish” (Miller, 1984, p. 151). Swales (1985) also confirms Miller’s notion of genre:

“...it is not only texts that we need to understand, but the roles that the texts have in their environments; the values congruent and conflictive, placed on them by occupational, professional and disciplinary memberships; and the expectation these memberships have on the patternings of the genres they participate in” (p. 219).

Following Miller (1984), many ESP genre studies have focused attention on seeing genres as socially situated actions (Tardy, 2011; Derewianka, 2003 and Devitt, 2015). Pennycook (2010) reinforces this point, saying that genres are not fixed textual categorizations, but ways of “getting things done through language” (p.122). For instance, one cannot understand the use of language “without taking particular language practices in particular locations into account” (Pennycook, *ibid*, 129). Further, Hammod & Derewianka, (2001) present genre pedagogy that typically includes particular kinds of teaching tasks: exploring the cultural context, analyzing the target situation, analyzing models of specific genres and identification of grammatical patterns (p.190). Thus, law students should have awareness of linguistics forms as well as their communicative functions in relation to its use in a context.

ESP researchers focus on the socially situated nature of genres and the role the genre in a particular setting (i.e. Bhatia, 1993; Askehave and Swales, 2001; Bhatia, 2019 and Devitt, 2015) and the importance of considering the ways in which a genre is embedded in the communicative activities of the members of a particular disciplinary community. They have explored ways of assisting students through effective engagement with texts to become active and participating members of the culture in which those texts play a part. According to Hyland (2007) genre analysis seems to offer the most effective means for learners to critique cultural and linguistic resources:

“The provision of rhetorical understanding of texts and a metalanguage to analyze them allows students to see text as artifacts that can be explicitly questioned, compared, and deconstructed, so revealing the assumptions and ideologies that underlie them” (p. 397).

Genre analyses have broadened beyond the study of discourse features to investigate the contexts in which they are produced and used to “uncover something of the attitudes, values, and beliefs of the communities of text users that genres apply and construct (Hyland,2007, p.397).Similarly, this study presents both discourse

features and the contextual factors related to reading legal texts and the perspectives from empirical studies useful for teaching reading legal texts.

METHODOLOGY

This study employed the Constructivist Grounded Theory Method (Charmaz, 2006) for data collection and analysis. It is a research methodology which has “systematic, yet flexible guidelines for collecting and analyzing qualitative data to construct theories 'grounded' in the data themselves (Charmaz, 2006, p.2). As this study synthesized the existing knowledge on the impact of lexico-grammatical features, domain knowledge and text structure on reading comprehension of legal texts, the Grounded Theory Method was considered suitable. The data for this study were drawn from 9 empirical studies related to reading legal texts that examined the difficulties faced by novices when interacting with legal texts. Accordingly, the irrelative data collection and analysis was continued until the categories of data were saturated. The studies were selected for in-depth analysis, based on their relevance and contribution to the study's thematic focus.

RESULTS AND DISCUSSION

The following section presents the result and discussion of this study, and it is organized in three sections: lexico-grammatical features, domain knowledge and text structure.

Lexico-grammatical Features

Issues with lexico-grammatical features can arise with interpreting unknown words as words are given different or multiple meanings in legal discourse. “While, in general, words can be used imprecisely and expressively; in law, words are used for precise reasons to limit concepts and rights” (Steel et al., 2017, p.193). For instance, Aurelia (2012) asserts that legalese is well known for its polysemy, and several terms have a general meaning but are ascribed to a different legal meaning by each legal system. The legal terms belong to a certain legal system that is the result of a different history and culture and cannot be understood out of these referents (p. 5476). For novices those terms would be a complete mystery and confusion.

Reinheart (2007) developed materials to enhance law students' vocabulary in reading cases. Those were based on the first-year subject areas of torts, contracts, and property at an American law school in which the first-year law undergraduates face challenges due to case-reading loads and unfamiliar legal vocabulary (p. xi). He introduced various vocabulary-learning strategies, including sensitizing students to word collocations or combinations, guessing the meaning of words in a legal context, and examining different meanings of a term (p. xii). These findings affirm Miller's (1984) notion of “genre as a social action” as he defined genre not in terms of “the substance or the form of discourse, but on the action, it is used to accomplish” (p. 151). It reflects the fact that a reader cannot understand the use of language in a genre “without taking particular language practices in particular locations into account” (Pennycook, 2010, 129).

In addition to difficulties related to legal vocabulary, legal texts such as statutes, cases and contracts have complex syntax. So that, “the reader has to work hard to make sense of how the paragraphs fit together” (Dewitz, 1990 cited in Christensen, 2007, p.5). While expert readers have been used to syntax of legal genres, reading contracts and statutes is “a complex linguistic puzzle” (Steel et al, 2017, p.193), and “largely incomprehensible” to novice readers (Christensen, 2007, p.1). Learning legal discourse is about learning to read new kinds of materials, thinking about them in new and different ways, and writing in highly conventional forms (Candlin et al. 2002). These findings are based on the Swalesan idea on genre(1985): “it is not only texts that we need to understand, but the roles that the texts have in their environments; the values congruent and conflictive, placed on them by occupational, professional and disciplinary memberships; and the expectation these memberships have on the patterning of the genres they participate in”(p. 219).

Domain Knowledge

Novice readers of legal genres often lack domain knowledge of law (i.e. case law, jurisprudence, legal theory etc.), results in difficulties in comprehending legal texts. Domain knowledge refers to the expertise needed to recognize terms and their relationship to larger linked bodies of knowledge. It is the “real world” knowledge that the reader brings to a legal text, which affects his or her comprehension (Christensen, 2007, p.4). It determines what readers will comprehend, and due to the lack of domain knowledge, readers cannot make sense of new information.

Lundeberg’s study (1987) is considered as the first research on analyzing how experts (i.e. law professors and attorneys) read cases differently from novices (i.e. individuals with no legal training). In her study, the experts understood the context of the cases by examining the headings, parties, court, date and judge, as they used the socio-legal context within which these texts are interpreted to comprehend the cases. In addition, Dewitz (1996), one of the pioneers of legal reading research, found that expert readers read legal documents drawing on their own prior legal knowledge and experience, aligning their reading to a purpose and contextualizing passages within the broader document (cited in Steel et al, 2017, *ibid*). This is determined by the expert reader through a combination of structural analysis and domain knowledge. For novice readers, this requires scaffolding through explicit commentary in casebooks and classroom (Dewitz, 1996 cited in Steel et al, 2017, p.196).

When law students read a legal text for a purpose they understand the text better. For example, Oates (1997) analyzed reading strategies of four first-year law students and identified that students performed better when they “read for a purpose” and understand the “importance of the context”. According to her, the successful students read for a purpose, and they understood that the interpretation given to a particular fact or text depends on the context in which the fact appeared, or the text was read (p.79). Hence, one major factor most influential on reading comprehension is the “real world” knowledge that the reader brings to the legal text. Due to the lack of domain knowledge, a novice reader is at a disadvantage compared to the expert.

Researchers (Lundeberg, 1987; Oates, 1997 and Stratman, 2002) found that the interpretation given to a particular fact or text depends on the context in which the fact appears, or the text is read. Stratman (2002) explored the relationship between a law student’s cognitive processes and how these processes worked in contextualized legal problem-solving. He asked 56 first-year law students to assume three roles when they read judicial opinions: an advisory role; a policy role and an advocate. He also added the fourth purpose for reading; he asked one group of students to read to prepare for a law classroom recitation, which was also used by both Lundeberg (1987) and Oates (1997). Stratman’s conclusion (2002) supports findings of Oates (1997): students comprehend more when they read with a “real world” purpose. Thus, domain knowledge of law facilitates readers’ comprehension of legal genres.

The above empirical studies reflect the theoretical perspectives of Hyland (2007) on genre analyses: genre analyses have broadened beyond the study of discourse features to investigate the contexts in which they are produced and used to “uncover something of the attitudes, values, and beliefs of the communities of text users that genres apply and construct (p.397).

Text Structure

Text structure of a legal genre also plays an important role in readers’ comprehension as a map to locate important information. For example, a legal case has its own unique structure: a summary of previous proceedings, issues or disputes, a rationale of the reasoning, decisions, and the rule (Dewitz, 1996, p.658). It is a strange and confusing structure for a new law undergraduate. Reinheart (2007) claims that case-reading requires an understanding of the basic structure and function of a case (p.xii). As per Lundeberg’s study (1987) on differences between expert (eight law professors and two attorneys) and novice readers (individuals who were presumed to be good readers but who had no training in law in reading legal cases), expert readers were knowledgeable about the text type, structure and the analytical strategies in reading a case, whereas the novice readers were not knowledgeable about those elements. Following Lundeberg (1987), Dewitz, (1996) found that expert readers use their knowledge of the structure of a case to guide their comprehension. They first locate the

facts of the case, then the decision, and finally read to understand the rationale behind the reasoning. Also, experts first read the case for an overview and flipped to the end of the decision to determine the result and understand the structure of the court decisions (p. 658).

The reader should understand the text structure of a legal genre, which guides their comprehension. These studies on the text structure of a legal genre confirms the theoretical focus on the socially situated nature of genres and the role the genre in a particular setting (i.e. Bhatia, 1993; Askehave and Swales, 2001; Bhatia, 2019 and Devitt, 2015), and the importance of considering the ways in which a genre is embedded in the communicative activities of the members of a particular disciplinary community, or profession.

CONCLUSION

This study was based on exploring the insights from the empirical literature related to reading legal text with a specific focus on the influence of three aspects: lexico-grammatical features, domain knowledge and text structure. In summary, words have multiple meanings and are used for precise reasons in legal discourse. In addition, legalese includes several terms that have a general meaning but are ascribed to a different legal meaning by each legal system. Therefore, the legal terms cannot be understood without referring to their contextual use. Therefore, the results of the empirical studies have suggested strategies to develop students' awareness of legal lexico-grammatical features such as sensitizing students to word collocations or combinations, guessing the meaning of words in a legal context, and examining different meanings of a term.

The second focus of the analysis was the role of domain knowledge in reading comprehension of legal genres. Many empirical studies identified that experts understood the context of a legal case using a combination of structural analysis and domain knowledge. They examine the headings, parties, court, date and judge, the socio-legal context, prior legal knowledge and experience, aligning their reading to a purpose and contextualizing passages within the broader document. The studies suggested that students performed better when they "read for a purpose" and understand the "importance of the context".

The analysis of the studies related to the text structure presented that case-reading requires an understanding of the basic structure and function of a case. For instance, expert readers use their knowledge of the structure of a case to guide their comprehension. They first locate the facts of the case, then the decision, and finally read to understand the rationale behind the reasoning. Experts first read the case for an overview and flipped to the end of the decision to determine the result and understand the structure of the court decisions.

The implications of this study are based on the above-described expert strategies that can be included in the teaching pedagogy of reading comprehension of legal texts. Experts examine lexical patterns and word combinations in legal texts, deriving meanings from the surrounding context and carefully considering the multiple interpretations of legal terms. They utilize their specialized knowledge to interpret cases by identifying essential elements such as the parties involved and the court, while maintaining a clear focus on their reading purpose. Also, they understand the structure of legal cases, including the facts, decisions, and reasoning, and they approach texts by reviewing these components in sequence, often starting with a general overview before detailed reading. Reading with a defined purpose allows them to engage deeply with the context, improving their overall comprehension. These findings offer recommendations for material writers, emphasizing the importance of incorporating activities on lexico-grammatical features, domain knowledge, and text structure to enhance learners' comprehension of legal texts. Future research can be conducted to evaluate the effectiveness of expert reading strategies related to lexico-grammatical features, domain knowledge, and text structure.

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