DESIGNING AN ENGLISH SYLLABUS FOR FIRST-YEAR LAW STUDENTS

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Dedication

To the loving memory of my sister, Thabile Nkosi (*nee* Ngwenya)..

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Summary

This study begins by presenting the language problems experienced by first-year law students at the University of North-West (UNW), a typical historically disadvantaged tertiary institution in South Africa. It points out that the general English course that the students have been taking does not meet their needs adequately. It then makes an extensive needs analysis. Needs analysis includes the following: learner profile, consultations and interviews with law lecturers, examination of the syllabuses and question papers of first-years' law programme at UNW, a diagnostics test, a questionnaire for first-year students, interviews with senior law students, and a survey of practical English courses in South African universitie, which aims at finding out how these institutions are addressing their first-years' language problems.

The results obtained from the needs analysis are supplemented by a literature review. It (the literature review) explores the teaching and learning of English at tertiary level, Legal English, and models for an ESP syllabus. The insights gained from literature review and the results obtained from needs analysis are then synthesised and used to create a theoretical framework for a content-based ESP course. On the basis of the this framework, a syllabus is proposed and guidelines for implementation are suggested. The proposed syllabus serves as a solution to the target group's language problems.

Opsomming

Hierdie studie begin deur die taalprobleme wat eerstejaarregstudente by die Universiteit van Noordwes (UNW), 'n tradisionele agtergeblewe tersiêre opleidingsinstansie in Suid-Afrika ondervind, uiteen te sit. Dit toon aan dat die kursus in Engels wat dié studente deurloop, nie aan hulle behoeftes voldoen nie. Die probleme word dan met behulp van 'n uitgebreide behoefte-analise ondersoek. Die behoefte-analise sluit in: leerderprofiele, konsultasies en onderhoude met dosente in die Regte, eksaminering van die sillabusse en vraestelle van eerstejaarsprogramme in die Regte by die UNW, 'n diagnostiese toets, 'n vraelys vir eerstejaarstudente, onderhoude met senior studente in die Regte en 'n studie van praktiese Engelse kursusse, om uit te vind hoe hierdie instansies hulle eerstejaars se taalprobleme hanteer.

Die resultate wat uit die behoefte-analise spruit, is deur 'n literaatuurstudie aangevul. Hierdie literatuustudie ondersoek die onderrig en leer van Engels op tersiêre vlak, Regs-Engels, en die modelle van die sillabusse vir Engels Spesifieke Doeleindes (ESD). Die inligting wat uit die literatuuroorsig verkry is en die resultate word dan gesintetiseer en gebruik om 'n teoretiese raamwerk daar te stel vir 'n inhoudsgebaseerde ESD-kursus. Met hierdie raamwerk as basis, word 'n sillabus én riglyne vir die implementering daarvan voorgestel. Die aanbevole sillabus dien as 'n voorgestelde oplossing vir die teikengroep se taalprobleme.

CONTENTS

Chapter 1

INTRODUCTION Page

1.1 English for Specific Purposes 1

1.2 Problem statement 1

1.3 The aim of the study 3

1.4 Research method 4

1.5 Programme of study 4

Chapter 2

A PROFILE OF FIRST-YEAR LAW STUDENTS

2.1 Introduction 6

2.2 Acquisitional context 6

2.2.1 Home milieu. 10

2.2.1.1 Mercenary factors 10

2.2.1.2 Non-mercenary factors 10

2.2.2 School milieu 11

2.2.3 University milieu 14

2.3 Transforming SPEN into EAS 15

2.4 Adult second-language learners 16

2.5 Transfer of background knowledge 17

2.6 Language skills 19

2.6.1 Listening 19

2.6.2 Speaking 21

2.6.3 Reading 22

2.6.4 Writing 24

2.6.5 Grammar 25

2.7 Conclusion 26

Chapter 3 Page

TEACHING AND LEARNING ENGLISH AT TERTIARY LEVEL

3.1 Introduction 27

3.2 English as a second language 27

3.3 A global English norm or standard English 29

3.4 The advanced level in ESL 31

3.5 Language skills 32

3.5.1 Listening 32

3.5.2.1 The range the teaching of listening should cover . . . 33

3.5.2.2 Varied listening tasks 33

3.5.2.3 Pragmatics 34

3.5.2 Speaking 36

3.5.2.1 Production skills 36

3.5.2.1 (i) Pronunciation 36

3.5.2.2 (ii) Stress and intonation 39

3.5.2.2 Interactive skills 40

3.5.2.2 (i) Turn taking 40

3.5.2.2 (ii) Asking questions 41

3.5.2.2 (iii) Agenda management 42

3.5.2.2 (iv) Negotiation of meaning 42

3.5.2.2 (v) Underlying force 45

3.5.3 Reading 45

3.5.3.1 Automatic recognition 47

3.5.3.2 Vocabulary 47

3.5.3.3 Structural knowledge 50

3.5.3.4 Formal discourse structure 50

3.5.3.5 Content/world background knowledge 50

3.5.3.6 Metacognitive knowledge 51

3.5.3.7 Synthesizing information and critical evaluation . . . 52

3.5.3.8 Reading speed 53

Page

3.5.4 Writing 54
3.5.4.1 Raison d'être for advanced writing 55
3.5.4.2 Demands of advanced writing 55
3.5. 4.3 The writing spectrum 56
3.5.4.3 (i) Writing for reinforcement 56
3.5.4.3 (ii) Writing for training 56
3.5.4.3 (iii) Writing for imitation 57
3.5.4.3 (iv) Writing for communicative competence 57
3.5.4.3 (v) Writing for fluency 58
3.5.4.4 (vi) Writing for learning 58
3.5.5 Grammar 60
3.6 Conclusion 63

Chapter 4

LEGAL ENGLISH

4.1 Introduction 64
4.2 Lexical features 65
4.3 Syntactic features 68
4.4 Generic structure 79
4.4.1 Layout features 79
4.4.1.1 Pedagogic Legal English 80
4.4.1.2 Academic Legal English 81
4.4.1.3 Legislative and Juridical Legal English 81
4.4.1.3 (i) Law provisions 81
4.4.1.3 (ii) Legal cases 83
4.5 Spoken Legal English 84
4.6 The Plain English Movement 86
4.6.1 Simplifying Legal English 89
4.6.1.1 Lexical devices 89
4.6.1.1 (i) Use simple expression 89

Page

4.6.1.1 (ii) Omit surplus words 90

4.6.1.1 (iii) Avoid vague words 90

4.6.1.2 Syntactic devices 91

4.6.1.2 (i) Use short sentence 91

4.6.1.2 (ii) Avoid wide gaps between the subject, the verb, and the object . 93

4.6.1.2 (iii) Avoid cosmic detachment 93

4.6.1.3 Generic devices 93

4.6.1.3 (i) Punctuate properly 93

4.6.1.3 (ii) Apply easification 94

4.6.1.3 (ii) (a) Clarify the cognitive structure of a text 94

4.6.1.3 (ii) (b) Clarify the legislative intentions of a text 94

4.6.1.3 (iii (c) Use popular register for public consumption . . . 95

4.7 Conclusion 95

Chapter 5

MODELS FOR ESP SYLLABUS DESIGN

5.1 Introduction 97

5.2 An overview of the curriculum and curriculum design . . . 97

5.3 The outcomes-based approach 100

5.4 Syllabus design as the expression of a paradigm 109

5.5 A definition of an ESP syllabus 109

5.6 Models of ESP 110

5.6.1 The synthetic syllabus 111

5.6.1.1 The register analysis or logico-statistical model 112

5.6.1.2 The rhetorical or discourse analysis model 112

5.6.1.3 The learner needs model 113

5.6.1.3 (i) The target situation 114

5.6.1.3 (i) (a) Necessities 114

5.6.1.3 (i) (b) Lacks 115

5.6.1.3 (i) (c) Wants 115

Page

5.6.1.3 (i) (d) Constraints 116
5.6.1.3 (ii) Learning needs 116
5.6.1.4 The skills and strategies model 116
5.6.2 The analytic syllabus 118
5.6.2.1 The personal-expressiveness model 119
5.6.2.2 The procedural model 120
5.6.2.3 The process model 122
5.6.2.4 The task-based language teaching (TBLT) model 124
5.7 Conclusion 128

Chapter 6

METHOD OF RESEARCH

6.1 Introduction 130
6.2 Needs analysis 130
6.3 Subjects 131
6.4 Steps followed. 132
6.4.1 Consultation with law lecturers 132
6.4.2 Analysis of the first-year syllabuses and past exam papers . . 132
6.4.3 Diagnostic test 132
6.4.4 Questionnaire for first-year law students 134
6.4.5 Structured interview with senior law students 135
6.4.6 Questionnaire for law lecturers 136
6.4.7 Survey of practical English courses in South African universities . 136
6.4.8 Triangulation of data 137
6.4.9 Design of syllabus 137
6.4.10 Conclusion 137

Chapter 7

RESULTS AND ANALYSIS

7.1 Introduction 138

7.2 Consultation with law lecturers 138
7.2.1 Listening 138
7.2.2 Speaking 139
7.2.3 Reading 139
7.2.4 Writing 139
7.2.5 Basic English 140
7.2.6 Transfer of skills and motivation 140
7.3 Analysis of first-year syllabuses and past exam papers . . . 142
7.3.1 The syllabuses 142
7.3.1.1 Introduction to the Study of South African Law 105 & 155 . . 142
7.3.1.2 Introduction to Criminal Justice 105 & 155/165 143
7.3.1.3 Law of Persons 105 & 155 143
7.3.1.4 Indigenous Private Law 105 & 155 143
7.3.1.5 Interpretation of Statutes 165 144
7.3.2 Basis of an ESP syllabus 144
7.3.3 Past examination papers 144
7.4 First-year law students' view on their language needs . . . 145
7.4.1 Biographical information 145
7.4.2 Reason for taking EAS 145
7.4.3 General aim of EAS 146
7.4.4 Specific aims of EAS 147
7.4.5 Content-based or general English 147
7.4.6 Perceived importance of skills 148
7.4.7 Preferred means of learning 148
7.4.8 The subjects' self-assessment 149
7.4.9 The rating of EAS 150
7.4.10 Desired major changes 151
7.4.11 Non-academic problems 152
7.5 The structured interview with senior law students 154
7.5.1 Is there a need for a practical English course a UNW? . . . 154
7.5.2 What should the aim of the course be? 154

Page

7.5.3	What should the content of the course be?	155
7.5.4	What should the nature of the course be?	156
7.5.5	What means of input provision do law students prefer?	156
7.5.6	What are the important language skills needed in law studies?	157
7.5.7	Are students satisfied with the way the course is assessed?	157
7.5.8	What major change do students want in the course?	158
7.6	The law lecturers' responses concerning the language needs of their first-years	159
7.6.1	The need for and the nature and duration of EAS	159
7.6.2	The ideal EAS teacher	159
7.6.3	Listening skills	160
7.6.4	Speaking skills	160
7.6.5	Reading	161
7.6.6	Writing	162
7.6.7	Legal English	163
7.6.8	Assessment	163
7.6.9	Overall impression about EAS	164
7.7	The results and analysis of the diagnostic test	164
7.7.1	The comprehension test results	164
7.7.1.1	Endophoric information	165
7.7.1.2	Exophoric or inferential meaning	167
7.7.1.3	Metacognition	167
7.7.2	Essays	168
7.7.2.1	Cohesion	168
7.7.2.1 (a)	Conjunction	169
7.7.2.1 (b)	Reference	170
7.7.2.1 (c)	Substitution	171
7.7.2.1 (d)	Ellipsis	172
7.7.2.1 (e)	Lexis	172
7.7.2.1 (f)	Parallelism	174
7.7.2.2	Coherence	175

Page

7.7.2.2. (a) Coherence at sentence level 175

7.7.2.2. (b) Coherence at discourse level 176

7.7.2.3 Gravity of error 180

7.7.2.4 Grammar 184

7.7.2.4.1 Tenses 185

7.7.2.4.2 Subject-verb concords 189

7.7.2.4.3 Adjectives and adverbs 191

7.7.2.4.4 Prepositions and phrasal verbs 192

7.7.2.4.5 Articles and nouns 194

7.7.2.4.6 The passive voice 197

7.7.2.4.7 The gerund and the infinitive 198

7.7.2.4.8 Modals 199

7.7.2.4.9 Indirect speech 202

7.7.2.4.10 Comparison and the superlative 205

7.7.2.4.11 Conditionals 208

7.8 Survey of practical English programmes in South African universities . 211

7.8.1 Main aims of the course 211

7.8.2 Students' major deficiencies 212

7.8.3 Nature of the course and clientele 213

7.8.4 Degree of linkage to mainstream courses 214

7.8.5 Content of the course 215

7.8.6 Input provision 216

7.8.7 Assessment 217

7.9 Conclusion 218

Chapter 8

A SYNTHESIS: A FRAMEWORK FOR AN ESP COURSE

8.1 Introduction 218

8.2 Current curriculum 218

8.3 Evolution of support programmes 218

Page

8.4 EAS as a university subject 220
8.5 The aims of the course 220
8.6 Product-oriented approach versus process-oriented approach . . 221
8.7 Sufficient input 222
8.8 Practice 222
8.9 The subjects' cognitive capacity 222
8. 10 Instruction 223
8.11 EAP versus ESP 224
8.12 Team-teaching 226
8.13 Language skills 226
8.13.1 Listening 227
8.13.2 Speaking 227
8.13.3 Reading 228
8.13.4 Writing 228
8.13.5 The integration of the language skills 229
8.14 A theoretical framework for the proposed syllabus 229
8.15 Conclusion 232

Chapter 9

A PROPOSED SYLLABUS AND GUIDELINES FOR IMPLEMENTATION

9.1 Introduction 233
9.2 The outcomes of the course 233
9.2.1 Terminological distinction 233
9.2.2 Stating outcomes 234
9.2.3 The organisation of outcomes 235
9.2.4 Criteria for the statement of outcomes 237
9.2.5 The ultimate outcome of EAS 237
9.2.6 The critical outcomes of EAS 238
9.2.7 Task-based teaching 238
9.2.8 The proposed syllabus 239

Page

9.3	The listening comprehension programme	241
9.3.1	Introduction	241
9.3.2	Selection of material	243
9.3.3	Grading of the material	243
9.3.4	The syllabus	243
9.3.4.1	Unit 1: Preparing for a lecture	243
9.3.4.2	Unit 2: Specific information	244
9.3.4.3	Unit 3: Information structure	245
9.3.4.4	Unit 4: Cohesion and coherence	245
9.3.4.5	Unit 5: Prosody	246
9.3.4.6	Unit 6: Following instructions	247
9.3.4.7	Unit 7: Different accents	247
9.3.4.8	Unit 8: Sociopragmatics	248
9.3.4.9	Unit 9: Formal and informal styles	249
9.3.4.10	Unit 10: Summarizing techniques	249
9.3.4.11	Unit 12: Making notes	250
9.4	A course in spoken English	251
9.4.1	Introduction	251
9.4.2	Selection of the material	252
9.4.3	Criteria for the selection and grading	254
9.4.4	Methodological implications	254
9.4.5	The syllabus	256
9.4.5.1	Unit 1: Socialising	256
9.4.5.2	Unit 2: Asking questions	257
9.4.5.3	Unit 3: Exchanging information and views	257
9.4.5.4	Unit 4: Suasion	258
9.4.5.5	Unit 5: Individual functions	259
9.4.5.6.	Unit 6: Conversational skills	259
9.5	The conversational class	261
9.5.1	Introduction	262

Page

9.5.2 Criteria for the selection and grading of topics and tasks . . . 262
9.5.3 Unit 1: Monologues 1: Conveying information 263
9.5.4 Unit 2: Monologue 2: Signposting. 263
9.5.5 Unit 3: Impromptu speech 265
9.5.6 Unit 4: Debates 266
9.5.7 Unit 5: Role-playing 266
9.5.8 Unit 6: Problem-solving 267
9.6 Pronunciation 268
9.6.1 Introduction 268
9.6.2 Selection and grading 268
9.6.3 Unit 1: Phonetic script 269
9.6.4 Unit 2: Vowels 270
9.6.5 Unit 3: Diphthongs and triphthongs. 271
9.6.6 Unit 4: Weak forms 272
9.6.7 Unit 5: Consonants 273
9.6.8 Unit 6: Word stress and sound changes 274
9.7 The reading programme 275
9.7.1 Introduction 275
9.7.2 Selection and grading of reading material 276
9.7.3 The syllabus 277
9.7.3.1 Unit 1: Using the dictionary 277
9.7.3.2 Unit 2: Vocabulary extension 278
9.7.3.3 Unit 3: Understanding definitions. 278
9.7.3.4 Unit 4: Speed-reading 279
9.7.3.5 Unit 5: Skimming and scanning 280
9.7.3.6 Unit 6: Intensive reading 280
9.7.3.7 Unit 7: Sociopragmatics 281
9.7.3.8 Unit 8: Main ideas and supporting details 282
9.7.3.9 Unit 9: Legal English 282
9.7.3.10 Unit 10: Summarizing 283

Page

9.8 Writing 283

9.8.1 Introduction 283

9.8.2 Selection and grading 285

9.8.3 Unit 1: Correct sentence construction 286

9.8.4 Unit 2: The paragraph 1: brainstorming and selecting . . . 286

9.8.5 Unit 3: The paragraph 2: topic sentences 287

9.8.6 Unit 4: The paragraph 3: paragraph development techniques . . 288

9.8.7 U nit 5: The paragraph 4: linking devices 288

9.8.8 Unit 6: The paragraph 5: transitions between paragraphs . . 289

9.8.9 Unit 7: The paragraph 6: variety in sentence type and length . . 289

9.8.10 Unit 8: Argumentative writing 1: awareness of one's audience . . 290

9.8.11 Unit 9: Argumentative writing 2: decoding the rubric . . . 290

9.8.12 Unit 10: Argumentative writing 3: brainstorming . . . 292

9.8.13 Unit 11: Argumentative writing 4: researching the topic . . . 292

9.8.14 Unit 12: Argumentative writing 5: selections and organisation of ideas 293

9.8.15 Unit 13: Argumentative writing 6: giving two sides to an argument . 293

9.8.16 Unit 14: Argumentative writing 7: revising 295

9.8.17 Unit 15: Argumentative writing 8: editing 295

9.8.18 Unit 16: Argumentative writing 9: editing 296

9.8.19 Unit 17: Writing a long essay 296

9.8.20 Unit 18: Report writing 297

9.8.21 Unit 19: Letter writing 298

9.8.20 Unit 20: Informal personal writing 298

9.9 Grammar 299

9.9.1 Introduction 299

9.9.2 Selection and grading 301

9.9.3 Unit 1: The Simple Present and Simple Past tenses . . . 302

9.9.4 Unit 2: The Progressive Aspect 302

9.9.5 Unit 3: The expression of past time 303

9.9.6 Unit 4: Future time 304

		Page
9.9.7	Unit 5: Mixed tenses	304
9.9.8	Unit 6: Common morphological errors	305
9.9.9	Unit 7: The modal auxiliaries	306
9.9.10	Unit 8: Indirect speech	306
9.9.11	Unit 9: Conditional sentences	307
9.9.12	Unit 10: Comparisons	308
9.10	Suggestions for implementation	308
9.11	Conclusion	311

Chapter 10

CONCLUSION

10.1	Introduction	312
10.2	The proposed course	312
10.3	Limitations of this study	314
10.4	Future research	315
10.5	In conclusion	316

FIGURE 1: Interactive move-structure in legislative writing	82
FIGURE 2: Nicholls and Nicholls' curriculum model	99

TABLE 1: Students' reasons for taking EAS	145
TABLE 2: Students' views on the specific aims of EAS	147
TABLE 3: Students' preferred means of learning	149
TABLE 4: Students' self-assessment of their competence in language skills	153
TABLE 5: Students' non-academic problems	155
TABLE 6: Students' wished-for aims of the course	157
TABLE 7: Students' views regarding the important skills they needed	161
TABLE 8: Students' reading problems	167
TABLE 9: Language areas that are important to law lecturers	162
TABLE 10: Students' cohesion errors	168

	Page
TABLE 11: Students' coherence errors	175
TABLE 12: The gravity of students' errors	180
TABLE 13: Students' grammar errors	184
TABLE 14: Some adverbial phrases of the present perfect and the past perfect .	186
TABLE 15: The four subsidiary aims of the course	211
TABLE 16: The deficiencies first-years have	212
TABLE 17: The characteristics of the practical English course in SA universities .	213
TABLE 18: The level to which practical English course has been made ESP . .	214
BIBLIOGRAPHY	317
APPENDICES	335

Chapter 1

INTRODUCTION

1.1 English for Specific Purposes

English for Specific Purposes (ESP) is one of the branches of Applied Linguistics. According to Richards *et al.* (1985: 94), ESP concerns "the role of English in a language course or programme of instruction in which the content and aims of the course are fixed by the specific needs of a particular group of learners." In this study, the specificity of the proposed course is determined by the language needs of first-year law students in an ESL environment, the university of North-West (UNW). This institution can be regarded as a typical historically disadvantaged university. In short, the focus of this research is course design, which according to Corder (1973: 13), is an important component of language teaching.

1.2 Problem statement

On entering university, many first-year law students at the University of North-West (UNW) encounter a range of learning problems not because they are innately incapable but because school education does not prepare them adequately for successful learning at tertiary level. The *Qualification Structure for Universities in South Africa: Report 116* (1996: 22-23) notes that there has been a sharp rise in the number of matriculants from the underprivileged communities who meet the minimum requirements for admission to tertiary study, as provided for in the Joint Statute of the Universities. Many of these students are not, however, adequately prepared for the demands of tertiary study and are consequently unsuccessful in their studies. The academic problems of the first-years at UNW seem to centre mainly on reading, writing and language, including inefficient decoding of academic texts, failure to construct a cohesive and coherent argument, and inadequate mastery of English grammar and legal discourse.

Reading and writing pose a problem mainly because teaching in the primary and secondary schools, from which the students in question come, is mostly oral and involves frequent code-

switching between English and the vernacular as well as code-mixing. In contrast to this, first-year law students at UNW encounter an exclusively English lecture-input and a large number of complex reading texts which they must decode and write about. Tests, assignments and examinations are often based on complex reading and writing processes. Exacerbating the problem is the tendency for legal texts, which the target group frequently deals with, to have a high propositional density (Danet, 1985: 286). It has been observed (Keightly, 1988: 50) that some of the reading and writing problems these students encounter are the following:

* critical reading, particularly as it relates to analysing a case,
* synthesising information from different sources,
* structuring a cohesive and coherent argument, and
* exercising persuasion.

So, first-year law students need to be taught mainly simple reading skills such as decoding endophoric references in a text, initially. Only later should they be taught higher-level decoding skills such as inferencing exophoric meaning, understanding supposition and evaluating an argument (Davies & Widdowson, 1974: 168-175). As far as writing is concerned, they should be taught sentence construction first, then controlled and guided writing, and lastly, free writing.

Closely connected to reading and writing is language proficiency. If students' language proficiency is good, their reading and writing skills are usually also good, and the converse is also true (Kakula, 1996). First-year law students need to be taught English grammar and Legal English. Teaching Legal English is important because it has been recognised that many law first-years, those of UNW included, have problems with the unique register of legal discourse (Bhatia, 1987: 231).

UNW has been offering an English for Academic Purposes (EAP) course called Special English (SPEN), as a means to meet first-years' academic needs. Garwen (1989: 10) points out that the Law Faculty at UNW has consistently encouraged this programme, recognising that there is a serious lack of English competency in many first-years. But one of the disadvantages of this course is that, because of its general nature, students are often unable to

transfer the skills they learn in it to their mainstream courses. It would seem that offering an English for Specific Purposes (ESP) course, one that is based on the mainstream subjects that students take, would be a more effective way of intervention, because this type of teaching contextualizes the subject matter and thus obviates the problem of transfer (Agar, 1990: 30).

Subject-specific teaching is based on the principle that "... language should be taught through a focus on contextualized use rather than on fragmented examples of correct sentence-level usage. In this way, the learner will become aware of the larger discourse level features and the social interaction patterns which are essential to effective language use, as well as of the current correct grammatical conventions" (Brinton *et al.*, 1989: 3).

Widdowson (1978: 16) also advocates the use of subject-related teaching of a second language; he argues that "... a foreign language can be associated with those areas of use which are represented by the other subjects of the school curriculum and that this not only helps to ensure the link with reality and the pupils's own experiences but also provides us with the most certain means we have of teaching the language as communication, as use rather than as usage."

The question is, then, whether or not one could design an ESP syllabus for first-year law students, using topics from law subjects in a way that will enable these learners to acquire mainly reading, writing, and language skills for successful learning at university. In addition, the course should prepare students for a career in the legal profession.

1.3 The aim of the study

The aims of the current study are to:

(i) examine the target group's needs,
(ii) examine current curricular practices,
(iii) examine the relevant literature on the teaching and learning of advanced English,
(iv) examine the features of Legal English,
(v) examine the present practical English courses at South African universities,
(vi) design a syllabus for a content-based ESP course for first-year law students of UNW.

1.4 Research method

The empirical component of research method was preceded by literature review. This involved areas such as curriculum and syllabus design, the learning and teaching of English at the advanced level, Legal English, and models of ESP (see Chapters 3, 4 & 5). A rigorous analysis of the needs of first-year law student at UNW was then carried out. This analysis consisted of a profile of the target group, a diagnostic test, an analysis of the syllabuses of first-year law programme and examination papers, consultations with law lecturers, a questionnaire about first-years' own views on their language needs, interviews of senior law students about language needs in law studies, and interviews with law lecturers about the same. The purpose of this was to obtain information on the typical student in the course and to make a situation analysis. The situational analysis was further extended by drawing up a questionnaire and sending it to departments of English at South African universities which offer practical English courses. The specific aim of this was to establish the current practice regarding the teaching of language-related intervention courses. In other words, although UNW is the case study discussed in this thesis, the practice at other universities was taken into consideration (see Chapters 2, 6 & 7). On the basis of this information a framework was created on which a task-based ESP syllabus for first-year law students of UNW was then drawn up (see Chapter 8).

1.5 Programme of study

Chapter 2 establishes the characteristics of the typical learner on which this research is based. It provides the learner profile, an adult learner and his/her capacity to acquire and learn a second language, and the acquisitional context. This is one of the factors that inform the design of the proposed syllabus, making the study as relevant as possible.

Chapter 3 addresses the learning and teaching of English as a second language at tertiary level, focusing on the academic demands that this exacts on the learner and the assumptions that go with them.

Chapter 4 discusses Legal English, its various features, justification for its use and reaction against its use. Since the proposed course is content-based and meant to meet the learners'

current and - to a lesser extent - future needs, it is important to consider the genre the learners will be dealing with.

In Chapter 5 recent developments in curriculum design are examined in order to be able to propose a model for the design of an ESP syllabus for a content-based English course for first-year law students.

Chapter 6 discusses the method of research. It indicates how needs analysis is used as a basis in this quantitative study and the step by step description of the investigation or the way data were collected to meet the identified needs.

In Chapter 7 the data or the results of the investigation mentioned in the preceding chapter are given. This complements the situational analysis.

Chapter 8 provides a synthesis based on what has been said in all the preceding chapters. The synthesis creates a framework for the design of a syllabus for a content-based English course for first-year law students.

The syllabus for the course is proposed in Chapter 9. Various specific outcomes, content, teaching/learning tasks, and assessment for a number of units are indicated. Guidelines for implementation are then given.

Chapter 10 provides a brief conclusion and makes recommendations for further research.

Chapter 2

A PROFILE OF FIRST-YEAR LAW STUDENTS AT UNW

2.1 Introduction

Many African students, for the next ten years at least, will be experiencing the adverse effects of a schooling which is only just emerging from an education system based on unequal and segregated apartheid philosophy. This inadequate schooling would not have prepared students for tertiary education - a reality acknowledged in state documents such as the White Paper on Education and Training (1995) and the National Commission on Higher Education (NCHE) Report to the National Minister of education (1996). Language and learning development is, as a result, regarded as a priority area by many tertiary institutions. For the language problems that first-year students at the University of North-West experience to be appreciated, this chapter sketches a broad profile of these students first. It explores the extent to which the broad acquisitional content motivates them to learn English. Discussions of the home, school and university milieus narrow the acquisitional context to specific areas. Then, the issues of adults as second-language learners, and transfer of background knowledge are addressed. Lastly, the target group's language proficiency in terms of academic skills and language competence is examined.

2.2 Acquisitional context

Kumaravadivelu (1994: 42) argues that, for ELT to be relevant, the establishment of a wide acquisitional context is imperative. According to him, acquisitional context or social relevance refers to "... the need for teachers to be sensitive to the societal, political, economic, and educational environment in which L2 learning/teaching takes place" (Kumaravadivelu, 1994: 42). Teaching and learning English at university do not take place in a vacuum; they are steeped in the larger societal context that impacts on them. The social context determines, to a great extent, matters like the motivation for learning English, the goal of learning English, the roles English is expected to play at home and in the community, the availability of input to the learner and the norms of proficiency acceptable to that particular speech community (see 5.2). Matiru *et al.* (1993: 57) observe that since public universities

in Africa are usually financed - to a great degree - by government funds, it is expected that the courses they offer are in line with the socio-political and economic philosophies of the respective nations in which they are situated. They stress, however, that this does not mean that courses should propagate these philosophies regardless of their values. All they want to highlight is that it is important to understand them in order to find ways of dealing with them. Knowing what cultural values the society emphasizes is useful. For example, whether society favours individual effort or group effort has implications for the methods teachers adopt. In South Africa, the department of education states, in its *Report 116* (1996: 3), that "A holistic approach should be followed that takes into account the objectives of the education system in general and of tertiary education in particular. One of these objectives is that aims, content and functions of the education and training sector must take into account the essential process of reconstruction and development that is taking place ... at present and make a constructive contribution in this respect". The other objective of this department is to foster lifelong learning through outcomes-based education (*Curriculum 2005*, 1997: 1). Regarding official language policy, the Pan South African Language Board (PANSALB) Amendment Act of 1999, section 6 states that while provision will be made for actively promoting the development of the previously marginalized languages, conditions will also be created for the promotion of multilingualism. In other words, both the development and acquisition of the previously marginalized languages and the learning of the other South African official languages like English will be encouraged.

As far as motivation is concerned, the target group's desire to learn English is fairly high (see 7.4.2; 7.5.1; 7.6.1). The target population falls in the age-group of young adults who are sometimes called "the lost generation" because many of these teenagers dropped out of school because they would not conform to the previous school system and status quo of the country. They (the target group) have managed to pass all their primary and secondary school classes including matriculation, albeit usually with low symbols (Hunter, 1988: 3). They have a keen political awareness and many of them have been involved in the politics of their communities in one way or another. On being asked why they chose law as their programme, many members of the target group cited, besides socio-economic advancement, the desire to contribute to the preservation of human dignity and ensuring fairness and equity (Gennrich *et al.*, 1996: 5). When they were asked why they were taking English, some said that it was mainly because they regarded it as one of the most useful instruments for

acquiring knowledge, which translates into power (see 7.4.2). They said they needed to acquire it in order to help in the social and economic advancement of their communities.

It would seem that these students have concluded that one of the means of advancing themselves and their communities socially and economically and ensuring equity and justice in the country is through the acquisition of education, which *Curriculum 2005* (1997: 2) regards as the key to change (see 5.3). For them, the only viable language for accessing education presently is English. They are aware that since the development of the vernacular languages has been arrested, these languages cannot, for the foreseeable future, be used for formal communication, talking about modern concepts and creating new ones (Mphahlele, 1984: 98). These students would, then, probably agree with Wright (1996: 159) when he notes that "Among its other aims, Apartheid was meant to keep black South Africans from the modernisation process, a process which successive Nationalist governments used as a means of improving the lot of white South Africa in general and their supporters in particular. Impoverished education for blacks was an enabling condition for this disparity, and limited introduction to English was a specific feature of it".

Although the vernacular is generally used for everyday, informal encounters in African communities, English is generally the language of preference for much of official discourse. These communities usually regard English as the language of liberation, resistance and unity (Reagan, 1986; Mphahlele, 1984; Mawasha, 1987). Highlighting how extensively English is used in African communities, Lanham (1996: 30) notes that:

> Mandela's speeches in South Africa are almost always in English. Minister Buthelezi's broadcast speech to the assembled Zulus on Shaka commemoration day was in English. A demand for the immediate delivery of English medium instruction in former black primary schools comes from parents and parent-teacher associations. Their motivation is clearly articulated: through English, opportunities are offered, higher education - hence job opportunities - is facilitated and the outside world is made accessible to their children.

Mawasha (1987) and Mphahlele (1984) point out, however, that the acceptance of English should not be seen as a weakness but as a demonstration of power, an alternative to the power

that Africans have lost through colonisation. It is a viewpoint such as this one, perhaps, that often causes the target group to appreciate the deliberate uses of vernacular-based vocabulary and syntax that some accomplished writers/speakers sometimes craftily use in order to temper the "purity" of English and assert the identity of an L2 speaker/writer (Gennrich *et al.*, 1996; Ndebele, 1987). Commenting on the spread of a similar phenomenon, Crystal (2000: 5) observes that "Language is an immensely democratising institution."

Despite the negative factors, there are a few factors that may facilitate the subjects' learning of their target language. Firstly, the present political climate appears to foster the use of English. Because of the democracy that the country has achieved and a desire to prove that the black child is not, as proponents of Bantu Education often argued, genetically inferior, it seems as if there is a great need in the African community to access as much education as possible. Before the Sharpville massacre (in 1960), many Africans had hoped that through educating themselves and peaceful protests, the Nationalist government would come to regard them as equal citizens with Whites. But the massacre undermined this hope. The possibility of ever resolving the political problems of the time by peaceful means was diminished. The 1976 Soweto riots were the last straw. The education that Africans had hoped to acquire was grossly reduced by the introduction of Afrikaans as the compulsory medium of instruction. Most of the teachers had not been trained to do this job. Afrikaans was viewed as the "oppressor's language", which was being used to subjugate Africans further. As a result, the 1976 riots erupted. In the new democratic South Africa there seems to be a strong desire to restore human dignity, to ensure justice and equity mainly through, among other things, education. Learners are, in general, co-operating. It has been found that, unlike many African-American teenagers, South African adolescents have a strong commitment to high educational goals and are optimistic about their futures (Getz, 1996: 5). It would seem that their involvement in the struggle against Apartheid and their bitterness over past injustices have given them a sense of purpose and strengthened their resolve to better their lives and the lives of those around them (Getz, 1996: 5). English education is the vehicle through which this is being done.

2.2.1 Home milieu

Home circumstances that impact on the target population's studies can be grouped into two categories, namely mercenary and non-mercenary factors.

2.2.1.1 Mercenary factors

Most of the students come from low-income homes. One of the major problems many students from African homes face is a financial one (Hawarden, 1985: 14). Many parents cannot pay for their children's fees and many can pay only the minimum amount required by the university. Their children have to apply for scholarships, bursaries and loans which sometimes are granted late or not granted at all. Inability to pay fees, and inability to purchase books and other learning tools, and inability to buy adequate nutritious meals are common problems for many African students. In such an environment there is a constant threat of failing one's studies and, as a consequence, getting excluded from the university (see 7.4.11).

2.2.1.2 Non-mercenary factors

The environment in which many UNW students live is often not conducive to studying. Many of these students' homes are overcrowded. Many of their parents have only rudimentary education. Households usually have very few reading materials, no electricity or running water and many non-resident students' homes are far from the campus. Sometimes the expectations of a student's parents that he should succeed place enormous pressure on him, especially where the student has siblings who are younger than him and the breadwinner is the mother (Gennrich *et al.*, 1996: 20). The common feeling in a situation like this is that such a student should have gone to work in order to earn an income for the family. All these factors may cause distractions and depression. As Harwarden (1985: 16) notes, many students who face these difficulties often suffer from insomnia, anxiety and headaches and cannot, as a result, study well (see 7.4.11).

2.2.2 School milieu

The use of English in schools is grossly inadequate. In their first two years of schooling, African pupils study through the medium of the vernacular and do English only as a subject. In the next two years (grades three and four), English is introduced as a subject and from the fifth grade onward, besides taking English as a subject, pupils use it as the medium of instruction (Gough, 1996: 54). This policy is based on the principle that the child's first language facilitates a smooth transition between the informal learning of the home or pre-school and the formal education of junior primary school. But Macdonald (1991: 15) points out that this has not helped the African child much, because education in junior primary schools is usually steeped in rote-learning, which makes it extremely difficult for pupils to recall and transfer the few skills they have learned in junior primary to senior primary where they use English as a medium of instruction (see 2.5). So, as Langhan (1990: 35) indicates, these pupils often find their reading materials inaccessible. Furthermore, writing to create meaning is often too difficult a task for them. Because these students cannot use language meaningfully in most instances, they often resort to rote-learning in order to pass exams and tests. Matiru *et al.* (1993: 54) suggest that rote-learning is widespread in Africa. Talking about Kenya, they say that "In the primary and secondary schools, our students learn by memorizing facts for reproduction in the examination and are very dependent on the teacher. Therefore, they will come to the university being underprepared." The effectiveness of rote-learning, however, is minimal and short-term. Highlighting the importance of understanding for long-term recall, Lachenicht (1980: 11) notes that:

> When the underlying logic and structure of what is to be learned is understood, recall is far easier. The material is no longer disconnected, but can be recalled in chunks with one part cueing the recall of another. Overall understanding of the logic of what is being learned provides a framework for recall, with what is known, cueing what has yet to be recalled.

It has also been found that many textbooks used in standard three, the transition year, are unsuitable for optimal learning; they are pitched far above students' level of competency (Langhan, 1990: 35). Since rote-learning is ineffective and painful, more pupils fail and drop out in the fifth-year than in any other standard (Macdonald, 1990: 25).

The use of English as medium of instruction at the senior primary level might suggest that this practice will promote pupils' acquisition of English. This, however, rarely happens. The main reason for this is that learning in African schools is, as has already been stated above, based principally on the transmission of factual knowledge and seldom creates opportunities for exploratory activities (Ellis, 1987: 86). This is largely because many teachers are, besides being ill-trained, not proficient enough to use English as a medium of instruction (Macdonald, 1990: 131).

The situation is no better in secondary schools; in fact, it is often worse. One of the reasons for this is that many teachers who teach at secondary school were trained to teach at primary school but got seconded to secondary school when it was realised that because teacher-training had, for a long time, focussed on the production of primary school teachers and neglected the needs of secondary schools, there were not enough teachers for the latter level (Hartshorne, 1987). Ellis (1987: 82-83) makes the following remark about the problems of using English as a medium of instruction in African secondary schools: "Teachers, even when willing, are often unable to use English to generate the kind of classroom interaction in which learning can flourish". That is why many of the first-years at university only have some knowledge of grammar and very little communicative competence.

Officially, the medium of instruction is English but in reality it is the vernacular even in what is supposed to be an English lesson. Amuzu (1992: 135), who visited secondary schools in the North-West region, notes the following:

> The translation method was commonly used in teaching mathematics, social sciences, biology, etc. The teachers first gave or read the topic or the problem in English and then explained in Setswana. Their reason was that the students would not or could not understand the teaching without explanations in the mother tongue. Students' questions were normally in Setswana. And outside of the classroom, in the staff-room, on the playground, all communication was in Setswana. Thus, while officially English is the medium of instruction, in practice it is little used.

Teachers and pupils work against great odds. The shortage of classrooms leads to overcrowding. In one classroom one sometimes finds two or more classes with about sixty or

more students in each. Many schools hold two teaching/learning sessions per day; one in the morning and the other one in the afternoon. Teachers do not get any extra reward for this extraordinary teaching. These conditions tend to undermine their motivation and render - among other things - the use of small discussion groups, which is very important for the development of speaking skills, difficult.

Kilfoil and Van der Walt (1997: 73) mention an added difficulty that rural students (the target group of this study) face in their learning of English. They state that since students in rural schools have few opportunities to hear or speak English outside the classroom the likelihood of their learning English successfully is rendered all the more difficult. They give the following conditions that characterize poor language learning, which may be pronounced in a rural setting like the target group's:

* Learners may not be sensitive enough to correction: they may be getting along well without applying a rule, especially if ignoring that rule does not seriously hamper communication.
* Learners may be subject to backsliding: they may in the process be internalizing one rule, and unconsciously slip back into an earlier, wrong application of another rule.
* Wrong usage may have fossilized: an incorrect rule may be used so much that it becomes fixed as an internalized rule.
* Learners may not be getting any corrective feedback from their teachers, who may be making the same mistakes that the students are making.
* Some errors may be teacher-induced, especially where teachers received a bad education, are underqualified or ill-trained.

Given these negative factors, it is not surprising, then, that first-year law students often experience language and learning problems at tertiary institutions. Using English at university normally involves, among other things, making students think independently, critically and in a complex way as they create meaning in their various disciplines. In law, for instance, students may be given a legal situation, which they are required to analyse, relate to a precedent, and from there make a judgment (see 7.2.4).

2.3.3 University milieu

UNW is an English medium campus with five faculties, namely, Education, Law, Human and Social Sciences, Science and Technology, and Commerce and Administration. Currently, it has about six thousand undergraduate students. About two thousand of these are part-time learners, who have their lectures between four o'clock in the afternoons, and nine o'clock at night. There are, also, approximately 350 post-graduate students, most of whom are studying on a part-time basis. First-year students are about two thousand. Most of the student body speak Setswana as their first language and English as a second language. The majority of these students have a Bantu Education background. There are only a few Indians, Coloureds, Whites and African expatriates; about 4% of the total student population.

Generally, the university does not appear to have a good image. The passing of the legislation that provided for the establishment of university colleges for Blacks on ethnic basis, the Extension of University Act of 1959, led to the creation of inferior (mainly in terms of resources) Black campuses. Although these institutions often received special grants for the creation of infrastructure, and book grants (for their libraries), which were often proportionally greater than those of historically advantaged universities (HAUs), these amounts could not make the libraries of South African universities equally resourced. Like most of the historically disadvantaged universities (HDU), UNW lacks the following facilities: a good library, a good bookshop, decent catering facilities, adequate lecture halls, and good sport facilities. Naidu (1999: 6) points out that in an HDU, the typical academic qualifications are that out of 10 lecturers, one has a Ph D degree, four have a Masters degree or equivalent and five have a Bachelor's degree. He goes further to say that many of the lecturers in these institutions are unable to initiate, conduct and sustain research projects (1999: 6). Incoming students seem to try other universities first, especially the historically advantaged English universities (HAEU) such as the University of the Witwatersrand, the University of Cape Town, the University of Natal/Pietermaritzburg, and Rhodes University, and after they fail to meet the entry requirements of these institutions, they come, as a last resort, to register at UNW. So UNW seldom gets students whose matriculation results are outstanding. Those usually enrol at the HAEU where good bursaries, good facilities, a wide range of academic programmes, and the prestige these campuses enjoy are a big attraction. Boycotts and strikes occur frequently and disrupt lectures at UNW.

2.3 Transformation of SPEN into EAS

Presently the university is engaged, like all universities in the country, in transformation processes including curricular changes. What has been emphasised in these actions is that the changes are in no way meant to lower standards; they are meant to make universities respond to various pressing needs of their environments as satisfactorily as possible. A case in point is the evolution of the practical English course at UNW. In an attempt to bridge the language gap between high school and university, the university introduced a compulsory, credit-bearing course for first-year students at its inception, the main aim of which was to improve students' proficiency in English. This subject was introduced as a result of the perceived need that "Black South African students experience an impoverished high school education through the medium of a second language, English, in which many of their teachers are not competent, with the consequence that they enter university ill-equipped to benefit fully from higher education" (Nuttall, 1983: 15). At first the course was based on conversation and was called Communication Skills. Later it focused on general academic skills and its name was changed to Special English (SPEN). Presently, after an evaluation recommended that Special English should be subject-specific and grammar should form part of the course (Agar, 1990: 15), attempts are being made to relate the course to the various subjects that students take. It has been observed (Gennrich *et al.*, 1996: 5) that first-years lack not only familiarity with basic English content of the subject area (see 2.5; 6.4), but also with such aspects as genre effect or rhetorical organization of a subject. There are specific cognitive skills that are often required to cope with the flow of information in different genres (e.g. the case of syntactic discontinuities in legislative rules discussed in 4.3). The course is now called English and Academic Skills (EAS). This transformation is in line with government policy that " ... the aims, content, and functions of the education and training sector must take into account the essential process of reconstruction and development that is taking place in South Africa at present and make a constructive contribution in this respect" (*Report 116*, 1996: 3).

The immediate need that law students have is that of passing their four-year law programme as soon and as well as possible (see 7.4.2). The mainstream courses that first-year law students take are: Introduction to the Study of South African Law 105 and 155, Introduction to Criminal Justice 105 and 155, Law of Persons 105 and 155, Indigenous Private Law 105 and 155, Interpretation of Statutes 165. Confirming Blunt's (1992: 42) observation that

"Good rote learners frequently succeed in 'passing' courses with little understanding of the subject", some students manage to pass all their mainstream courses but fail EAS. The reason for this may be that EAS discourages rote-learning and emphasises understanding and critical thinking more than many subjects do (see 7.5.1). The long-term need of the subjects of this study is acquiring language skills that will enable them to practise their legal professions adequately (see 7.2.1). Commenting on the far-reaching benefits of the ability to read and write well, Radloff (1994: 2) quotes an Australian survey in industry and government which has indicated that the majority of respondents "... believe there is a direct relationship between efficiency, productivity and good literacy skills" (Radloff, 1994: 2). Furthermore, *Report 116* (1996: 22-23) states that "In the case of career-oriented degrees, students should be trained to fulfil the requirements of a specific occupation."

It is not only quality assurance that is important here; quantity is also at issue. There is an urgent need for Black lawyers in South Africa. In 1988 Dlamini pointed out that, except in the homelands, there were no black prosecutors, magistrates, or judges (Dlamini, 1988: 35). Statistics for 1986/87 (Garwen, 1989: 7), which cannot have changed much, indicate that the number of white legal practitioners outnumbered their black counterparts by more than ten to one. In round figures, this meant that out of an approximate total of 6000 attorneys, 650 were black - only about 300 of these were African. The total number of advocates was 871 and of the total of 77 black advocates only 25 were African. Considering that blacks in South Africa outnumber whites by approximately ten to one, these numbers of Black practitioners were infinitesimal. It appears that the birth of a democracy in South Africa has necessitated a speedy production of black legal practitioners.

2.4 Adult second-language learners

An average student matriculates at the age 17-19. The typical student in a first-year course such as EAS is an 18-23 year young adult. Such a student is usually interested now in attaining a near-native speaker competence in his/her target language. Strevens (1977: 17) remarks that "It is the universal experience of language teachers that young children (say, age 6-13) display different characteristics from older learners." The research that has addressed the age variable in second language acquisition is, according to Ellis (1995: 491), quite enormous. He adds that, not surprisingly, researchers have reached different conclusions, but

despite this some common agreement has been established, one of which is that the process of acquiring an L2 grammar is not substantially affected by age, but that of acquiring pronunciation may be (see 3.5.5).

Another positive aspect of adult second-language acquisition is that adult learners such as the subjects of this study may have advantages over child learners. One of these advantages is that adults have had a number of years of formal education and have acquired a certain skill in manipulating the formal elements of language and in expressing their meaning in utterances. In other words, they have learned how to learn. Moreover, they have now reached the stage of formal operations. They are therefore able to use hypothetical reasoning (Piaget, 1955: 45). The implication of this is that these learners are ready to think about and comprehend the many complexities of language forms. A direct appeal can be made to their stage of cognitive development: they want to understand the way language functions (see 8.9).

2.5 Transfer of background knowledge

Widdowson (1978: 16) suggests that second language students entering an English-medium university will simply translate the language skills and concepts in the subjects already acquired in their first language. For a student to be able to transfer language skills from L1 to L2 as easily as Widdowson proposes, there has to be a short linguistic distance between L1 and L2. As Kilfoil and Van der Walt (1997: 8) point out, "The concept of distance implies that some languages are 'nearer' to one another than to others, and if the learner can transfer some of the knowledge from this mother tongue to the second language, the learning task should be easier". When European learners study another European language, they can use the knowledge of their first language in order to acquire the target language because of shared linguistic features and because of more or the less the same levels of development these two languages may have attained and the similar basic structure they usually share (Starfield, 1994: 177). It is not so with black South Africans who are learning a European language such as English (see 2.6.1). Although English and black languages of South Africa are SVO languages, there are some concepts, such as prepositions and articles, which are expressed differently in these tongues and some that are present in the former but not in the latter. The three ways of showing proximity in Setswana (*yo* meaning "this", *yoo* meaning "that", *yole*

"that yonder") and Zulu (*lo* meaning "this", *lowo* meaning "that", *lowaya* meaning "that yonder") as opposed to the only two ways of expressing proximity in current English ("here" and "there") are a case in point. These differences tend to minimize transfer.

As far as the transfer of concepts is concerned, in comparison with their white counterparts, disadvantaged African students usually have an inferior background knowledge of the basic concepts of the subjects they study (Scott, 1994: 7). The curriculum frameworks currently used in historically disadvantaged universities were originally developed in universities that were serving a predominantly white, urban middle-class clientele from relatively privileged homes and schools. Even though virtually all their students came from a significantly African background, the historically disadvantaged universities (HDUs) adopted essentially the same Eurocentric curricula that the historically advantaged universities (HAUs) were using when they (the HDUs) were established. In addition, most universities for black people were built in rural areas and residential segregation confined Blacks to impoverished townships or villages. So, to all intents and purposes, black students have a deprived background that has denied them the cultural capital that many of their white counterparts have.

Most of the first-year law students come from rural areas where traditional values, many of which are not conducive to a Western-oriented education, are strong (see 5.3). These values may, for example, discourage a critical disposition. In a typical African rural community young people, the group to which the majority of the target population belong, usually defer to older people or to a source of authority. Unlike in a Western setting where competition is often important, in a typical African rural community discourse is generally based on co-operation (Madlebe, 1994: 55). Norms such as these may tend to make the target group less critical of both their lecturers and their learning materials. One of the shortcomings UNW students have, according to Murray and Johanson (1989a: 155), is an inability to be critical. African education, generally, seems to have lost the balance that it used to have in pre-colonial informal education where while the child was made to listen to the didactic and entertaining stories of the elders, he could engage actively and critically in the many opportunities the home and community presented such as music, dance, play, etc. (Ellis, 1987: 82). Negative factors like these are likely to reduce considerably the transfer that Widdowson has in mind.

Sheeran and Barnes (1991: 15) argue that even if the content of the curricula were African in HBUs, first-year students, especially the disadvantaged ones, would still sometimes find their subject inaccessible because they usually lack the "ground rules" or the "complex system of tacit expectations and norms". These ground rules may be obvious to the initiated, but often need to be made explicit to most of the first-year students (Starfield, 1996: 163). First-year law students, therefore, need to be taught metacurricular issues such as what conflicting paradigms there are in a discipline, and how legal genre is used "to language" the subject matter (Starfield, 1996: 163).

Another reason why Widdowson's transfer hypothesis would not suit the target group concerns the common underlying academic proficiency that it assumes the L1 learners have. In the former Department of Education and Training schools pupils were made to substitute the use of the vernacular as a medium of instruction with English in grade five (see 2.5); that is, before they acquired what Cummins (1984: 295) terms cognitive, academic language proficiency (CALP) skills. So there is very little in terms of academic literacy that they can transfer from their L1 to L2. That is why many often find the reading of content materials and essay writing too difficult and, as a result, resort to rote learning.

2.6 Language skills

The pilot study that the English department at UNW has carried out (Gennrich *et al.*, 1996: 9) indicated that for first-year law students to study successfully, they needed to be taught language skills. Language skills are divided into listening, speaking, reading and writing skills, and grammar in the section that follows.

2.6.1 Listening

Listening to an English discourse often poses several problems for first-years at UNW. Two of these problems are failure to hear correctly, and failure to understand the meaning of what has been said (see 3.5.2). One of the causes of failure to hear correctly is that the prosody of Bantu languages, the language group under which these students' mother tongues fall, differs markedly from that of English. Bantu languages are syllable-timed and put the main stress on the penultimate syllable of a sentence, whereas English is stress-timed and tends to glide

over the less important words, information that has already been given or that which is predictable from the context and puts stress at the same intervals (Lanham, 1994: 45). Whereas tone usually indicates attitude in English, it indicates meaning in Bantu languages. UNW students often experience decoding problems because of these differences in the sound systems of their first languages and English. They often cannot, for instance, detect meanings, word and sentence boundaries conveyed by the use of stress and attitudes suggested by tone (Lanham, 1994: 45).

Differences in vowel quality and vowel length between an African language like Setswana and English may cause decoding problems (Lanham, 1994: 40). Setswana has a total of seven vowels and English 22 (see 9.6.4). Most speakers of African languages scarcely ever produce the schwa vowel because this vowel does not occur in their languages, and they seldom make distinctions in vowel quality when producing the words such as bad, bird, and bed. Moreover, whereas some of English vowels are diphthongs, and some triphthongs, all the Setswana vowels are monothongs. These differences are also likely to cause listening problems for the Setswana student.

Black students' wrong expectation of how English is pronounced is another cause of problems. Some phonemes are elided under the influence of speed of delivery or assimilated under the force of neighbouring sounds, and some inflected forms are pronounced differently from their basic forms (see 9.6.7). Many UNW first-year students tend to rely on the orthography of a word and expect a word to be pronounced, as the case is in their first languages, in the way it is written. They also expect the pronunciation of an inflected form to resemble that of a basic one. For example, they may miss the vowel change in the second syllable of pronounce and pronunciation. Furthermore, South African blacks are developing a variety of English that is different from the standard South African English, and it is quickly fossilizing (Buthelezi, 1995; Nwaila, 1993; Gough, 1996). This might contribute to problems in decoding speech that is different from what they are used to. As law practitioners often deal with people of different accents, it is important that the target group possess good listening skills.

Black students may hear correctly the surface meaning of an utterance but fail to figure out what its covert meaning is. This often results from inability to understand conversational

implicatures (see 9.7.3.7), paralinguistic cues, and to recognise information structure. If one is unaware of these ways of conveying information in a lecture, one tends to miss the main ideas and supporting details and one's decoding becomes limited to surface processing.

2.6.2 Speaking

Most of the first-years have not had enough experience of participating in interaction in their previous schooling, because communication there was seldom open-ended (Macdonald, 1990: 134). The classroom is generally a peculiar place as far as communication is concerned. McCarthy (1991: 19) observes it is " ... a place where teachers ask questions to which they already know the answers, where pupils ... have limited rights as speakers, and where evaluation by the teacher of what the pupils say is a vital mechanism in the discourse structure." This is almost always the norm in black schools. Pressuring a student who is not used to speaking English spontaneously might produce a great deal of discomfiture in that student. Sometimes after failing to hear or understand what has been said during a lecture, a UNW student may hesitate to engage in classroom discourse, fearing that what he wishes to say might be completely irrelevant. He may thus decide to keep quiet. Murray and Johanson (1990: 17) point out that at the University of North West it has been found that students generally tend to underrate their speaking ability and overrate their writing ability. Lack of confidence seems to be one of the reasons for students' reluctance to speak in class. Law students need to have good speaking skills because, when they become lawyers, they will have to speak for and to their clients (see 7.2.2).

Listening and speaking problems are, nonetheless, not as severe as the reading and writing problems are. This is because context-embedded skills or basic interpersonal communicative skills (BICS) such as listening and speaking are, according to Cummins (1984: 45), more easily acquired than context-reduced or cognitive academic language proficiency (CALP) skills. With good teaching, many students who experience listening and speaking problems overcome them perceptibly by the end of the first quarter of the academic year (see 7.2). Perennial problems are in reading, writing and grammar (Kakula, 1996, Professor of Private Law, personal communication).

2.6.3 Reading

Saunders (1991: 2) mentions that in a survey at some of the tertiary institutions in the erstwhile Bophuthatswana, it was found that the average reading age in English of first-years was 8 $^{1}/_{2}$, that is, the equivalent of the average first-language pupil half-way through Grade 3. He also indicates that most first-years do not only lack reading proficiency to pursue a tertiary education satisfactorily but that they also have not acquired the background knowledge that only a long habit of reading for pleasure can bring about (Saunders, 1991: 2). These students may, therefore, lack the ability to recognise words and the structures of a text and to comprehend what is in the text (see 3.5.4.3). Efficiency in recognising form and good understanding of content lead to fast reading and the converse is also true. Also lacking in these students may be the ability to use background knowledge to interact with a text (see 2.5), and the ability to store new information in long-term memory and recall it when needed.

In most of the former Department of Education and Training schools one of the most common practices in reading lessons was that the teacher would read out short texts for learners or the learners themselves would read out short texts in unison. Very few mentally stimulating questions would be asked. Largely because of this tendency, when many first-year law students read, they are not as analytical as they should be and as a result of this, they frequently fail to meet the requirements of decoding the complex readings of university level such as those demanded by a legal text, for instance (see 4.2.4). Kilfoil (1997: iv) observes that a student of law often needs to be capable of doing the following:

* analysing sentences that can run into hundreds of words without adequate punctuation
* wading through archaic language, inverted sentence structures, legal (often not English) jargon, cross references, and
* trying to link subjects to verbs and verbs to objects when they are separated by reams of redundant words

As Atkinson and Longman (1990: 417) point out, "Reading is not just knowing words. It is thinking. Any time you read, you use logic skills. These skills are the systematic framework within which reading takes place. Using the context requires you to analyse the sentence and choose a meaning that makes sense. When you find a main idea or draw a conclusion, you

are using logic. Analytic reasoning, then, is crucial to comprehension. Learning to understand what you read is learning to think."

Again, first-year law student at UNW are usually not as selective in their reading as they should be. They often assume that all their reading materials need to be read with the same level of intensity and without leaving out any section. Skimming and scanning, two of the indispensable skills for lawyers because they frequently need to refer to many documents in their practice (see 7.2.3), are often not practised.

Murray and Johanson (1989a: 155) also note that one of the main weaknesses of many first-years at UNW is inability to read critically (see 3.5.4.7). Students tend to use the bottom-up approach far more than the top-down approach, i.e. making use of information which is already present in the data (words and sentences) more than of previous knowledge. Texts differ in the degree of freedom they allow for alternative readings or interpretation. Legal texts are probably the most closed texts and poetry the most open. Readers whose linguistic and cultural background differs from that of the author may have interesting contributions to make to the interpretation of texts. On occasion, they may need to do harder interpretive work than readers from the same background as the writer, but this in itself can help them become more critical and reflective readers. But if these students' schooling is the one that uses rote-learning where the text represents "truth", as the case often was in the former DET schools, they tend not to challenge or reinterpret it. Also, students who, like UNW students, have not had easy access to libraries might be less likely to look for alternative sources of information or question the relative strengths and weaknesses of the texts they encounter. Furthermore, as is true of UNW, students who come from communities with limited literacy among the population, may downplay the importance of literacy skills and do, to their detriment, little extensive reading. In contrast to all these contexts, literacy in academic settings in developed countries exists within the context of a massive amount of print information (see 2.5). Students normally come to assume that any source of information can be balanced against alternative sources, and come to expect that challenging a text is a normal academic activity. First-year law students are far from displaying these competencies. According to Saunders (1990: 7), when many black students graduate, they have improved very little on the reading ability with which they first entered college or university. They still only read under compulsion, and reading remains a drudgery.

2.6.4 Writing

The essays of UNW first-years often display an inability to synthesise information from different sources, inability to integrate information from sources with their background knowledge, and to write critically (Murray & Johanson, 1990: 147). The first two problems could be attributed to these students' lack of knowledge of formal conventions of academic literacy or cognitive academic language proficiency (CALP) skills (Gough, 1996). Murray and Johanson (1990), Hubbard (1989), and Patricio (1993) see L2 learners' problem of academic illiteracy mainly in terms of these students' inability to understand and use cohesion and coherence (see 7.7.2.1; 7.7.2.3). There are at least three reasons for this problem. First, students from the former DET schools were exposed almost exclusively to narrative writing. They obviously require exposure to expository writing as well (Gough, 1996: 58). Second, the extensive use of rote-learning in schools, in which writing exercises emphasised correcting and avoiding grammatical errors at the expense of creating meaning, does not develop these students' sense of audience; it makes them unable to articulate their internally understood cohesion and coherence (Starfield, 1989: 15). It also often causes them to abandon all sense of overall planning (see 9.8). Third, as Ferris (1997: 317) points out, the teachers' view of composing as a product rather than a process often prevents students from improving their writing skills. In product-oriented writing, in content subjects as well as in languages, the feedback that students get in their essays seldom requires them to revise what they have written. Usually students are expected to communicate what they already know rather than use writing as a tool for exploring meaning.

As regards first-years' failure to synthesise information from sources with their background knowledge, one of the main causes of students' failure is that most of the curricula are Western-oriented. As a result, African students often find it difficult to relate what they are learning to their own experiences (see 2.5). This, in turn, often causes many students to perceive their curricula as ethereal, which is why these students sometimes write or say something that they themselves do not understand but hope their lecturers do.

2.6.5 Grammar

In a survey and interviews that UNW carried out on the language needs of first-year students (Agar, 1990: 18), it was repeatedly indicated by both students and staff that first-years need to be taught grammar. In fact, some lecturers think that the students' lack of knowledge of the structure of English and general vocabulary is so severe that the teaching of grammar should not end at first-year level but continue until students finish their programmes. Also some UNW lecturers think that if first-years could acquire a good lexico-grammatical competency in English, most of learning problems would be solved (Kakula, 1996, Professor of Private Law; Amuzu, 1996, Head of the English Department, personal communication).

First-years have been taught grammar at school but it has not been learned well largely because it was non-communicative (see 2.2.2). As Kilfoil and Van der Walt (1997: 71) point out " ... teachers often complain of Std 10 (Grade 12) students who have been taught for nearly ten years that the third person singular present tense verb takes an -s ending and yet they cannot apply the rule. Most students know the rule, however, and will be able to correct themselves when the error is pointed out to them. One needs no clearer indication that knowledge of rules does not necessarily imply that those rules will be used." A prerequisite for the use of a rule is the internalization of that rule; trying out the rule in communication situations until it becomes second nature. Rutherford (1987: 40) calls the process whereby the rules of a learner's language improve gradually grammaticization. He states that this process can be realized by means of "grammatical consciousness-raising" (Rutherford, 1987: 42). It involves deductive and inductive strategies. Deductive strategies require learners to infer a rule from tasks given, and inductive strategies require them to apply the rules in subsequent tasks. Accuracy-oriented grammar should form one of the major components of basic English (see 8.13.5). According to Kilfoil and Van der Walt (1997) and Yalden, (1983; 1987), most writers agree that accuracy activities should form the larger part of language course in its initial stages, and that the focus should gradually shift to fluency activities in the middle and later stages.

A mastery of basic English can serve as a good basis for the acquisition of Legal English, which the subjects need to possess (see Legal English in Chapter 4).

2.7 Conclusion

The target group of this study faces a range of language problems. Some of these problems are caused by non-academic factors such as those that occur in society, the home environment and the school. Some are academic. For example, inappropriate methodology, and poor teacher quality have generally had a limiting effect on many of first-year law students' level of attainment. Nevertheless, there are some positive factors that help motivate the students in question to learn English. One of them is their desire to uplift themselves and their community socially and economically through English education. In order to meet these students' language needs, a relevant practical English should be designed. It should offer remedial English first so that the developmental input that is given later can be accessible.

Chapter 3

TEACHING AND LEARNING ENGLISH AT TERTIARY LEVEL

3.1 Introduction

This chapter provides a brief discussion of the use of English as a second language in South Africa. It addresses questions such as what is meant by the terms "standard English" and "advanced students". It then relates the definitions of these terms to the teaching of the four main language skills, i.e. listening, speaking, reading, writing, and grammar to advanced ESL students at tertiary level.

3.2 English as a second language in South Africa

It is important to consider the setting in which language teaching and learning take place. Johnson (1982: 15) says in this regard: "The question we need to ask concerns the country where our students will use their English. Is it a country in which English is the native language; or where an accepted variety of English is used as the second language; or a non-English speaking country where English is used as a lingua franca? The answer to these questions will certainly affect the kind of English we teach our students - the pronunciation we offer them as a model, the words (and even the structures) we ask them to learn" (cf. 2.2).

In the settings where English is used, a distinction is often made between native speakers (NS) and non-native speakers (NNS) of a language. Native speaker language is associated with the first language to which a child is exposed. In the context of learning English, then, native speakers (NS) are those for whom English is the primary language; non-native speakers (NNS) are those for whom English is a secondary language. As far as the status of English in a country where it is used by most of or all of the population is concerned, a broad distinction is usually made between English as a second language (ESL) and English as a foreign (EFL). Ellis (1994: 12) says the following on this distinction: "In the case of second language, the language plays an institutional and social role in the community (i.e. it functions as a recognized means of communication among members who speak some other language as their mother tongue). ... In contrast, foreign language learning takes place in

settings where the language plays no major role in the community and is primarily learnt only in the classroom." Mpepo (1998: 84) notes that the distinction between foreign language and second language is, for mercenary reasons, often blurred deliberately, when he says:

> The English language industry is almost entirely oriented towards learners of the language as a foreign language and not as a second language. It is in the Arab world, the Far East and now Eastern Europe where the money from sales of textbooks, handbooks and other materials is mostly generated. As a result, the issue of how to teach English or what to teach in a situation where English is really a second language and not a foreign language is not often raised.

Jenkins (1996: 10-11) suggests a paradigm shift in her definitions of ELT terms. She argues that "If English is now predominantly an international language, it seems inappropriate, to say the least, to label as "NNS" those who have learnt it as a second or foreign language and achieved bilingual status (i.e. fluent, proficient users)". She then points out that the dichotomy between native and non-native speakers of English causes negative perceptions of NNS and robs them of ever owning the language. In the place of NNS, she suggests the use of the term Bilingual Speakers of English (BSE) for fluent and proficient speakers of English. For those L2 speakers who speak English as a second language and are not fluent, she suggests the use of Non-Bilingual Speaker of English (NBSE). The use of E in NBSE is important as it suggests that the speakers might be bilingual in languages other than English. NBSE carries none of the negative connotations evoked by "no-native"; instead, it hints at the possibility that many L2 speakers of English may have no intention to speak it fluently and that their competency in English may have reached the degree at which it serves their particular international need. She substitutes NS with Monolingual Speakers of English (MSE) to refer to L1 speakers of English who speak no other language fluently. This subverts, according to Jenkins (1996: 11), the perceptions of what a NS stands for. Firstly, the term MSE is less favourable than BSE, reflecting the fact that monolingualism is not the world norm; it is a disadvantage as compared with bilingualism. Secondly, BSE removes the artificial distinction (in the international context) between speakers of L1 varieties of English and equally proficient speakers of L2 varieties" (Jenkins, 1996: 11). As for EFL, Jenkins (1996: 11) maintains that English cannot be "foreign" internationally since all over the world people use it to communicate with one another. Thus she suggests the use of the term

English as a Lingua Franca (ELF). One of the reasons she gives for this is that "The Latin name symbolically removes ownership of international English from the Anglo-Saxons to no-one and, in effect, to everyone" (Jenkins, 1996: 11).

What these perceptions indicate is that calling English a second or foreign language often depends more on society's ideological considerations than on how it relates to the learner in reality. Nonetheless, the distinction between second and foreign language has been important for several reasons. First, it affects the degree of the learner's prior familiarity with English. Second, it affects the learner's expectations of success. Third, it affects both the average level of attainment reached by most learners (higher overall in ESL than in EFL countries) and the ultimate norms or goals for success which learners and teachers set themselves (usually aspiring to L1-like in EFL countries, but aspiring rather to an NNS target in ESL countries) (Strevens, 1987: 60).

3.3 A global English norm or standard English?

Talking about NS, NNS, BSE, ESL and the other value-laden concepts assumes a norm. Strevens (1987: 61) points that "Throughout the world, regardless of whether the norm is native-speaker or nonnative-speaker variety, irrespective of whether English is a foreign or a second language, two components of English are taught and learned without variation: these are its *grammar* and its *core vocabulary*." Although there might be variations in terms of local vocabulary, idiom and pronunciation from one dialect to another, there is a fixed English grammar and vocabulary that form the global norm or standard English. This standard variety is accepted everywhere throughout the English-speaking world, not just in a single locality. Moreover, it is spoken with any and every accent in the world. As far as pronunciation is concerned, the norm (normally set without a conscious decision) is that of an educated non-native speaker, which is mostly internationally intelligible (see 2.6.2). The native speaker norm, which is usually associated with Received Pronunciation, though maximally intelligible, tends to be socially unacceptable (Strevens, 1987: 65). So it is mainly by the degree to which they are able to use Standard English that students at university are judged.

It would seem that in NNS contexts there is, at present, a great deal of advocacy for a vigorous use of local vocabulary and idiom as long as it does not blur the intelligibility of the message (Ndebele, 1987; Prabhu, 1978; Mphahlele, 1984; Widdowson, 1994). One of the current challenges of ELT is the demand to adopt a broad critical approach, one that raises and sustains an awareness of historical, social and political aspects that should inform and shape language teaching and learning (Norton-Pierce, 1989; Butler, 1996; Jenkins, 1996). Butler (1996) calls into question the teaching of standard English in a South African L2 context, given the imperial legacy of English, the small number of students who succeed in attaining standard English and the fact that the distinction between standard and non-standard English suggests unequal power relations by which the rejection of Black English is often justified. But he also asks if encouraging Black English would not be tantamount to irresponsibility, considering that it would disadvantage these students even further since they need proficiency in English for them to practise their professions successfully in South Africa and internationally.

Widdowson (1994: 382) rejects the concept of standard English and declares: "It is my belief that it does not actually exist." He points out that the term suggests fixation, but English is constantly acquiring many new words. Thus he says " ... English is no longer the preserve of a group of people living in an offshore of European island ... It is an international language" (Widdowson, 1994: 382). He further refers to grammarians' double standard when he notes that "The varieties of English used for international communication in science, finance, commerce and so on are mutually unintelligible. Proponents of grammar tolerate this kind of 'instability' but when it comes to L2 use where lexical innovation is, as in the other varieties, motivated by communicative and communal requirements, it is dismissed as deviant or dialectal." Achebe (1975: 61-62) calls into question the practice of insisting on the use of standard English when he notes the following:

> If ... you ask: *can* [an African speaker of English as a second language] *ever learn to use it* [English] *like a native speaker*? I should say, I hope not. It is neither necessary, nor desirable for him to be able to do so. The price a world language must be prepared to pay is submission to many different kinds of use ... I have been given this language [English] and I intend to use it ... I feel that the English language will be able to carry the weight of my African experience. But it will have to be a new

English, still in full communion with its ancestral home but altered to suit its new African surroundings.

In short, the question of standard English in a second language setting requires the demarcation of core grammar and vocabulary and the synthesising of these components with the definition of what an acceptable, educated English is in the place where it is used (see 2.2).

3.4 The advanced level in ESL

As it is important to know where the teacher is leading the learner, it often helps to have an idea regarding what level of competency first-years are supposed to have for them to successfully carry out their studies at university level. But Van der Walt (1982: 187) points out that there is no fixed definition of what is meant by the phrase "advanced level", "the beginners' level" or "the intermediate level". One student may be better than others in one area/s but poorer in another or others. According to Percival (1962: 75), the differences between an advanced and non-advanced learner depend on the level of organisation of language that each of these learners engages in. As the non-advanced learner has not yet acquired the basic structure and vocabulary of the language, he often operates at a unit smaller than a sentence: the morpheme and word levels. On the other hand, an advanced learner, because of his better command of the structure and the vocabulary of the language, operates at the sentence level. Moreover, his usage involves extra-linguistic issues such as levels of formality, style, the subject matter, etc. (Van der Walt, 1982: 189). Although it is often assumed that a hallmark of the advanced level is " a full mastery of the structural possibilities of the foreign language" (Van der Walt, 1982: 189), one still encounters structural errors in students who have studied English for twelve years and whose profile is like the one sketched in chapter two. So it is difficult to define an advanced student on the basis of language proficiency. It would seem that students in an English course at the university level are regarded as advanced mainly by virtue of the fact that the learning processes they engage in and the subject matter, the pacing and the independent work expected of the learner is far higher than is the case at school level. Their language skills need to be well developed to meet this need. The next section discusses the teaching of the language skills.

3.5 Language skills

There may be no universal definition of what standard English entails or who an advanced ESL student is but the following areas have almost always been the main components of a practical English course designed to develop student language at tertiary level in South Africa: listening, speaking, vocabulary, reading, writing, and grammar (Jordan, 1997: 3). These areas are discussed below. As the importance of these components to the target population vary, they are not discussed in equal measure. Listening is discussed in less detail because this skill is relatively less important (see 7.4.8; 7.5.3). The dominance of L1 speakers is decreasing. Progressively, most of the advanced students who enter university are ESL speakers in South African universities nowadays and the number of ESL lecturers is rising every year. These ESL speakers experience very few problems with each other's pronunciation. In addition, although many ESL students experience listening problems at university at the beginning of their first academic year when they listen to native speakers, these obstacles decrease considerably as the year unfolds (see 7.2.1; 7.2.2).

3.5.2 Listening

Methodologists have tended to stress the teaching of reading and writing at the expense of other language learning skills (Brown, 1987: 11). The only serious interest in spoken language used to be paid to the teaching of pronunciation alone (Brown, 1987: 11). The structuralist approach limited the teaching of listening to identification of the sounds and prosody at the sentence level. Any concern about meaning beyond the sentence level was regarded as something that belongs to another field of study. Later traditional listening classes focused on the understanding of content. Goh (1997: 376) says that such teaching is "... limited to the understanding of a particular listening text. We need, especially at the advanced level, to involve in far more listening processes some of which are: the range listening input should cover, varied listening tasks, and pragmatics".

3.5.2.1 The range the teaching of listening skills should cover

Advanced students need to be exposed to a wide spectrum of listening texts (see 9.3.4.7). Wissing (1987: 45) observes that ESL students seldom encounter and participate in standard,

educated colloquial English. What they are used to is formal classroom English. Law students in particular need to be made aware of the whole spectrum of slang-familiar-neutral formal English and be exposed to various accents because they will deal with a varied clientele in their practices (see 9.3.4.9).

3.5.2.2 Varied listening tasks

The teaching of listening skills has tended to overemphasise the understanding of the details of the text. Exercises that require students to know details should be balanced with those in which this is unimportant. For example, exercises analysing conversation could focus on the following: the metacognitive or "how" issues" such as how the speakers are being friendly; how they agree with each other: if they disagree, how carefully they manage to show there is a disagreement without actually having a confrontation; how they organise moving from one topic to the next; how they refer back to what the previous speaker said; how they pick up and use each other's words as they talk; how they make it clear that they are going to give an answer before actually doing it by uttering "fillers" and so on (see 9.3.4.8). It has been observed that students' listening often improves after metacognition has been raised (O'Malley & Chamot, 1990; Wendel, 1991). Although students do have beliefs about ways of learning a language, these ideas are often vague and unsystematic and because of this, they (the beliefs) do not help them much in their learning processes such as listening. Keeping listening diaries is considered one of the most effective means of raising metacognitive awareness (Goh, 1997; Matsumoto, 1996). It encourages students to think about their own listening and consider ways of improving this skill (cf. 5.3).

Besides the metacognitive or "how" issues, tasks can highlight areas such as main points, discourse markers, reference, prediction, information transfer, "impurities" of spoken language (hesitations, repetitions, incomplete sentences, etc.), and features of connected speech such as weak forms - contraction, elision, assimilation, linking, reduction - and stress (see 9.3.4.4; 9.6).

On the teaching of micro skills such as weak forms and stress, Norris (1995: 49) remarks that adult foreign students of English should not be expected to bring the same decoding strategies to listening such as top-down processing listening as native speakers do. He asserts that "if

we jump right into listening comprehension activities that require the students to use native speaker processing skills like top-down without first giving the students a firm grounding in decoding the stream of sounds they hear, we run the risk of putting the cart before the horse and causing the students more frustration and confusion than they can handle." This parallels Eskey's argument about the importance of "holding in the bottom" in ESL reading (see 3.5.4.3). Norris (1995: 48-49) then adds that students should be aware that they are not responsible for using the reduced forms in their own speech but are responsible only for trying to understand and to respond to what they hear (see 9.6.8). The function of stress is to mark the information-bearing words in an utterance. It is, therefore, crucial to ensure that ESL students know how it functions in a language.

3.5.2.3 Pragmatics

Speech Act theory seeks to find sets of conditions that match with a set of sentences and implies that for any given sentence, there will be one fixed meaning. In this way communication is seen as the exchange of thought tokens (Brown, 1987: 16). The communicative approach to teaching, however, with its interest in discourse analysis, stresses that words do not always have fixed meanings or meanings that can be expressed easily. So listeners should always engage in reflective listening in order to deduce meaning. Brown (1987: 14) says that:

> We constantly classify our new experiences in terms, as far as possible, of existing words and expressions even when they are not strictly speaking semantically matching. Metaphorical extension far from being the deviant embarrassment it has been treated as in standard semantic theory, constitutes the very basis of human thought. Far from having fixed meanings, words are constantly at risk from being pushed into new usages by individuals and speech communities.

Communication is, therefore, not a process of exchanging "meaning tokens" but rather a "risk-ridden" event, both from the point of view of the speaker who attempts to let his listener understand his thoughts through what he says and from the point of view of the listener, who attempts to infer what the speaker says. Brown (1987: 11) maintains that "There is always

imaginative *effort* required in communicating on both sides; it's not just a question of coding or decoding."

Use of prior knowledge (see 2.5) is not important for reading purposes only; it is also vital in listening. This point alludes to the fact that being a native speaker is no guarantee that one will understand every text so long as it is based on one's native language. Many discussions on Law and Economics delivered in English, for instance, are inaccessible to educated English native speakers who are non-specialists in these fields. That is why Widdowson (1998: 4) says that "We use language indexically, to point to aspects of knowledge assumed to be shared between us and our interlocutors. ... What we suppose is known already we do not refer to; all we need to do is to activate it and indicate its relevance. All this is simply to say that what language means semantically is not at all the same as what people mean by language pragmatically."

Some of the listening problems advanced ESL students encounter are, according to Goh (1997: 366), the following:

(a) Taking notes interferes with processing
(b) Failure to distinguish main points from details
(c) Mistaking one word for another similar-sounding one
(d) Inability to recognize sounds of words which are known in writing
(e) Understanding individual words but not getting the overall meaning
(f) Missing the next part when thinking about words or interpretation
(g) Failure to decode unfamiliar accent rate of speech
(h) Lack of the knowledge of the code
(i) Failure to deal with one's negative feelings
(j) Failure to activate prior knowledge.

Strategies that Goh (1997: 366-367) says could be used to reduce these listening problems include the following:

(a) Guess or infer meaning
(b) Ignore unfamiliar words

(c) Visualize setting/subject

(d) Use prior knowledge and context to interpret input

(e) Recognize discourse markers and information structure

(e) Recognize tones, intonation and body language

(f) Be global and not serial in decoding

(g) Recognize phonological modification

(h) Integrate personal knowledge, task knowledge and strategic knowledge

(i) Ask speakers to repeat

(j) Listen in groups/pairs and pool information.

It is important to help learners become more autonomous, especially where they have been subjected to an education that emphasised dependent learning as former DET education did with the target group.

3.5.2 Speaking

Bygate (1987: vii) observes that speaking is an undervalued skill because it is often regarded as a "popular" form of expression that uses the unprestigious so-called colloquial kind of expression: literary expression is generally considered more important. The truth of the matter is, however, that speaking is important and should be taught. In Bygate's (1987: vii) words, speaking is " ... the vehicle *par excellence* of social solidarity, of social ranking, of professional advancement and of business. It is also a medium through which much language is learnt ...." The ability to speak English is the skill by which university black students are most frequently judged (see 7.2.2; 7.4.6; 7.5.3). The main issues to consider in the teaching of speaking skills to advanced students are production and interactive skills.

3.5.3.1 Production skills

3.5.3.1 (i) Pronunciation

Taylor (1996: 46-52) remarks that ESL students gain a great deal of benefit from the teaching of pronunciation. This assertion is true of many first-years at UNW whose pronunciation can be made more intelligible by the teaching of pronunciation. These students are often

embarrassed when they are told to repeat what they have said, which occurs frequently, because their interlocutor did not understand what they said (Gennrich *et al.*, 1996: 25). They also often miss what the lecturer says, especially at the beginning of their academic year.

Caution should be exercised, however, as far as the level of attainment is concerned. A too ambitious aim could be frustrating to both the learner and the teacher, so a realistic aim needs to be set. Ellis (1994: 488) draws attention to Thompson's study of foreign accents in Russian immigrants in the United States. In this study Thompson found that those learners who had arrived before they were ten years old had a more native-like English accent than those who came after this age. This supported the Critical Period Hypothesis (cf. 2.4). But two subjects who came to the US at the age of four years were still rated as having a "slight accent". Thompson's explanation of this deviation is that these learners' failure to achieve a native speaker level of pronunciation is because they had maintained a high level of speaking Russian, and that this led to interlingual identification. Thompson's findings are instructive for two reasons: they suggest that the critical age hypothesis should be explained in relation to other factors such as L1 maintenance; secondly, some learners might not want to sound like native speakers. Von Schon (1987: 26) points out that "... a sort of reverse snobbery has set in in some parts of the world, so that Indians, Nigerians, etc. prefer <u>not</u> to sound too British, but to demonstrate their group loyalty and pride by sounding like educated Indians, Nigerians or whatever." Some exceptional adult learners, though, have been able to acquire native accent (Obler, 1989: 15). Their number, however, is negligible. The period during which a native accent is easily acquirable appears to end sooner than the period governing the acquisition of a native grammar (Ellis, 1994: 448).

At university level the model to aim for is that recommended by Von Schon (1987: 22-27). She maintains that advanced students should learn as many varieties as there are in their country, if possible. But within the continuum of each of the varieties, Lanham (1996: 18) holds that focus should be placed on the teaching of the "respectable" form. Although this form of English in a black community is usually spoken by a minority of people and has phonetic features that are different from White South African English (WSAfE), it is socially acceptable and internationally intelligible. It is neither a stigmatised non-standard speech pattern nor an unacceptable native-like sociolect. It is beginning to be recognised that the greatest number of English speakers is now that of the so-called non-native speakers and that

the largest proportion of interaction in the English language takes place between these speakers rather than between native and non-native speakers (Jenkins, 1996; Crystal, 2000). Jenkins (1996: 10) also points out that: "The traditional prototype paradigm of second language teaching, which assured that a non-native learner learned English in order to communicate with a native speaker of English no longer represents the primary context of use of English in the world today."

The native model can be used as a point of reference to prevent local non-native varieties from moving too far apart from each other. Dalton and Seiderhofer (1994: 27) say that "If we treat RP and/or General American as a norm, we connect them strongly with ideas of correctness. The norm is invariable and has to be imitated independently of any consideration of language use. The aim, however unrealistic, is 100 per cent attainment of the norm, which is regarded as an end in itself... if we treat RP and or General American as a model, we use them as points of reference and models for guidance. We decide to approximate to them more or less according to the demands of a specific situation." Also advocating this balancing act, Crystal (1998) mentions two forces that should coexist. On one extreme is the desirability to be intelligible; on the other extreme is the question of identity.

Nevertheless, while acknowledging that it is frequently not advisable to use native-like proficiency as a norm in an L2 environment, Jenkins (1998: 124-125) cautions that "we should all guard against political correctness, in the sense of telling our learners what their goals should be: in particular that they should not want to sound like native speakers if they clearly wish to do so." From time to time, there may be a minority of students who desire to attain more or less native-like pronunciation, and attempts should be made to meet that need. As adult learners possess more fully developed cognitive skills (see 2.4), which enable them to apply themselves studiously to the task of learning a L2 (Ellis, 1993: 493), one could teach them phonetics. They could be taught the structure of the speech organs, articulation, stress pattern, intonation, phonetics transcription and the relationship between spelling and pronunciation. This could go together with production exercises and training in auditory discrimination. The teaching of phonetics empowers students: it equips them with a skill they will use in future, since it enables them to pronounce a word correctly by looking up the phonetic transcription in the dictionary (Framil, 1989: 43). Although it has been pointed out

that it is not so much the incorrect pronunciation of individual segments as the suprasegmental features that often make the speech of speakers of English as a second language unintelligible (Lanham, 1996; Jenkins, 1998), teaching them phonetic transcription can help them improve the clarity of their speech (see 9.6.3).

3.5.3.1 (ii) Stress and intonation

Crystal and Davy (1975: 8) express the importance of teaching prosody in the following terms:

> Unlike grammar, vocabulary, and segmental pronunciation, mistakes in intonation are not usually noticed and allowed for by native speakers, who assume that in this respect a person sounds as he means to sound. "That chap has some interesting things to say, but he's so arrogant about it all" may be a reaction to a foreigner who has little control over his low rising tones, for instance. This kind of unconscious brick-dropping is, we know, extremely common; and its eradication should be a main aim of any approach to the teaching of conversation.

Lanham (1996: 123) points out that the mismatch between the prosodic features of English and those of South African black languages often makes the English speech of black South Africans unintelligible. One such mismatch is that the English weak forms have no counterparts in black languages. Syllables may be reduced in fluent quick speech in the South African indigenous languages, but this takes the form of vowels loss, complete in some cases or resulting in consonantalization of, for example, the vowels u and o becoming w. For instance, in Setswana, a is completely lost where *ngwana a ka* (child of mine) becomes *ngwana ka* in fast speech. O becomes w when an utterance like *O a bua* (He/She is talking) turns into *Wa bua.*

Another difficulty arises from the fact that, on the one hand, South African indigenous languages are syllable timed: the main stress normally falls on the penultimate syllable in a sentence. In the SeTswana sentence, "Ke rata dijanaga tse seyaNAng", and in its IsiZulu equivalent, "Ngithanda izimoto ezigijiMAyo, which means "I love fast cars", the main stress is placed on the penultimate syllable. On the other hand, English is stress-timed: time spans

between stressed syllables are more or less equal so that any intervening syllables, the number of which may vary, are made to fit into the available space between stresses. Except where an entity that has already been mentioned is highlighted to reassert it as a topic, the main stress falls on new information or on the information that is being contrasted. For example, in:

A: It's raining

B: It's ALWAYS raining.

Always is new information, so it receives the main stress. In "I ordered BLACK shoes. You've sent BROWN shoes", the colour terms express contrast, hence their prominence. What is predictable from context or from knowledge of the world is not stressed. In "The PHONE is ringing", the word *phone* is stressed because, from one's knowledge of the world, one knows that ringing is the only thing that a telephone can normally do (see 9.6.7).

Lastly, there are different pitches in the tones of English and Bantu languages. There is still no full analysis of intonation in Bantu languages available (Lanham, 1996: 123).

3.5.3.2 Interactive skills

3.5.3.2 (i) Turn-taking

Turn-taking involves the way in which speakers hold or pass the floor, which varies between cultures and between languages. Overlap of turn is said to occur in only about 5 per cent of conversation or less, strongly suggesting that speakers somehow know exactly when and where to enter conversation (Cook, 1996: 52). Efficient turn-taking involves non-linguistic factors such as gaze, posture, body movement, prosody, and power-relations. According to Bygate (1987: 35), turn-taking requires five abilities:

* knowing how to signal that one wants to speak
* recognizing the right moment to get a turn (Bell (1997) says that in Western communities overlap is more tolerated than in African communities.)
* knowing how to use appropriate turn structure in order to use one's turn properly and not lose it before finishing what one has to say. Bell (1997) observes that African

cultures tend to preface their turn with a lengthy background explanation before getting to the point while Western cultures do the opposite.)

* ability to disagree tactfully (by starting one's turn, for example, by agreeing in some way with the previous speaker, before moving on to make a different point)
* and recognizing other people's signals of their desire to speak and creating chances for others to speak.

It has been observed (Bell, 1997) that there are conversational differences between people with an African background and those with a Western background. One of these differences is that Westerners tend to be uncomfortable with silence. McCarthy (1991: 129) suggests that their conversation is dictated by "a set of norms decrees that talk must be kept going, wherever possible, even if only to buy time. So they often use fillers like "hm", "er", "you know", "I mean", etc. Africans, in contrast, tend to take long pauses and their threshold of discomfort with silence appears to be higher. The result of this is that, in a conversation with English L1 speakers, Africans are often interrupted frequently and English L1 speakers tend to talk longer. Thus, they may be perceived as rude and too fast (see 2.5).

3.5.3.2 (ii) Asking questions

Asking questions is very important in lectures and seminars. It is one way of involving oneself actively in class. Advanced ESL students, therefore, need to be taught how to formulate and ask them. Jordan (1989: 155; 1997: 194) lists the following question-types:

* requesting repetition of information
* requesting additional information
* requesting clarification of input
* requesting confirmation of the student's interpretation
* and querying something that the lecturer has said.

Van der Walt (1986: 101) says that "these functions may seem, and are indeed, simple matters to teach, yet their implications are very important. Students who are too shy to ask questions would clam up even more if there is the added fear of making a mistake in the second language." Murray and Johanson (1989a: 155) emphasize the importance of

frequently questioning the input that students' receive because most of the sources (for the significance of values and attitudes, see 5.3) that are being used are foreign and because of the need to reverse the rote-learning that many former DET schools have encouraged.

3.5.3.2 (iii) Agenda management

Agenda management concerns the participants' right to choose the topic and the way topics are developed, the right to choose how long the conversation should continue, and ways of influencing people's attitudes towards what is being discussed or arguing one's point (Bygate, 1987: 36). Wolfson (1989: 55) observes that when advanced black students participate in conversation with native speakers, they tend to show a lack of knowledge of impression management, especially if there are asymmetrical power relations involved. For example, although black students may be fluent L2 speakers, they often cannot or will not debunk the negative stereotypes held by their white professors in discussion of their examination results.

3.5.3.2 (iv) Negotiation of meaning

Speaking is interactive mainly because it often involves more than one participant. Speakers will often have to adjust their vocabulary and message to take the listener into account. They also often have to participate actively by asking questions, reacting, and so on. In addition, because speaking is reciprocal, it requires that there be what Widdowson (1998: 5) calls "convergence" or mutual understanding between interlocutors. Cook (1996: 15) states that "The idea that conversation proceeds according to a principle, known and applied by all human beings, was first proposed in a limited form by the philosopher, Paul Grice, who put forward what he described as the co-operative principle." According to this principle, people interpret language on the assumption that its sender is obeying four maxims. They assume that they intend to:

be true (the maxim of quality)
be brief (the maxim of quantity)
be relevant (the maxim of relevance)
be clear (the maxim of manner).

There are, however, cases when the demands of the four maxims do not fit so well together. It is difficult, for instance, to obey both the quality and quantity maxims simultaneously. Cook (1989: 30) notes that brevity and truth often pull in opposite directions, and the short answer is often simplified to the point of distortion. Thus in non-scientific discourse, the utterance "Water boils at 100 centigrade" is brief enough to be acceptable but in a scientific discourse one would need to say something like "Water boils at different temperatures depending on altitude," which would be too long in the former context. By being long-winded, legal and scientific discourse often sacrifices the maxims of quantity to the maxim of quality (Cook, 1996: 31). Similarly, the maxim of quantity may clash with that of manner as when a person needs to be long-winded in order to be clear.

Speakers often flout Grice's maxims and if receivers do not understand these deliberate departures, communication normally breaks down. The use of figurative language like metaphor, hyperbole, irony and sarcasm, for instance, can be used for effect but their use requires the receiver not to interpret it literally. Cook (1996: 31) observes that "... children and foreign language learners sometimes interpret figures of speech literally and ... the truth of a message is something constructed by sender and receiver, and not only - as is usually held to be the case - a quality of the sender's intention or the message itself" (Cook, 1996: 31).

Just as the quality maxim can be flouted for effect, so can the other three. The quantity maxim is violated in both directions: creating prolixity if we say too much and terseness if we are too brief. Sometimes the maxim of relevance is flouted if one wants to signal embarrassment or desire to change the subject. The maxim of manner is flouted either for humour, as in the case of puns and double entendres, where rival meanings are deliberately tolerated, or in order to establish solidarity between speakers and exclude an overhearer from the conversation. Lawyers and judges, for example, may talk to each other in ways the prisoner in the dock cannot understand. It has been noted that there are differences between African and Western co-operative principles. While in an African setting conversation is often based on co-operation, in Western society it tends to be competitive (Bell, 1997). Lakoff and Johnson (1980: 45) note that in English, for instance, the concept of argument is often described in military terms. So, there are phrases such as *indefensible* claims, *shoot down* or *demolish* an argument, and *be right on target* in one's criticism.

Negotiation of meaning also involves the principle of politeness. Like the co-operative principle, the politeness principle may be formulated as a series of maxims which people assume are being followed in conversation. Cook (1996: 32), gives the following maxims of politeness: don't impose, give options, make your receiver feel good.

In English speakers apologize for imposing ("I'm sorry to bother you..."). They couch directives and requests in many forms of questions ("Would you mind...", "Could you possibly...", "May I ask you to..."). They include compliments to make receivers feel good. ("You know much more about car engines than I do"). A common flouting of these maxims occurs between closely related people. One lover may say to his/her beloved, "Make love to me" or "Caress me here, Love", thus flouting the first two maxims. Flouting the third maxim, members of an African in-group may call one another by the swear word, "kaffir" (Mageza, 1998: 15). In all these departures, felicity conditions like the right of the speaker to say the utterance, the tone of the utterance, the motivation behind, and the setting should obtain first for them to have meaning (see 9.3.4.8).

The observation of the principle of politeness is said to be a universal phenomenon (Cook, 1996: 34). It has two aspects to it: acknowledging the face of other people, in other words, the speaker should avoid intruding upon each other's territory (physical territory, a particular field of knowledge, a friendship); seeking to enlarge the territory of others by making the other person feel good. However, degree and specificity may vary from culture to culture. The extent to which parents may involve themselves in their children's affairs, for instance, is often culture-bound.

Also the precise way of indicating respect for face may be culture-specific. In one culture, initial refusal of an offer may be merely polite, and invite repetition; in another the opposite may be true. Again, it has been found that, whereas Western society often plays down hierarchical differences, African society is more hierarchical and use of titles to mark respect is pronounced. Children, therefore, often show deference to adults and a person of a lower rank shows the same to one of a higher rank (Bell, 1997).

The observation of politeness conflicts with the co-operative principle. When persons tell their friends a white lie, they make the maxim of quality clash with politeness. The maxim of

quantity conflicts with the politeness principle when one needs to be long-winded in order to be polite. The co-operative and politeness principles serve a dual purpose, namely, to enable speakers to act efficiently together with other people, and to create and maintain social relationships (Cook, 1996: 35). Their universality explains why people often speak indirectly: it makes it possible for speakers to give options and to retreat behind the literal meaning of what is said (Cook, 1996: 34-36).

3.5.3.2 (v) Underlying force

Speech Act theory postulates the presence of layers of intention and interpretation in an utterance. Explaining these layers, Cook (1996: 39) writes: "The formal literal meaning of the words is the locution; the act which is performed by saying it is the illocution; and a third layer is the perlocution or overall aim of the discourse. An utterance is said to have illocutionary force and perlocutionary force." People often express their upshot indirectly. Again, this indirectness enables them to avoid committing themselves and to retreat in front of danger. But by the same token, Cook (1996: 40) points out that sometimes people explicitly discuss the illocutionary and perlocutionary force of what is said. People often say, "I was only trying to ...".

3.5.4 Reading

There are various conceptualisations of reading at the advanced level. After the debunking of the audiolingual myth of regarding learning to read as a mechanical exercise, Eskey (1971: 15) propagated the idea that reading problems in ESL were linguistic in the early 1970s. He argued that " ... part of our responsibility as teachers of advanced reading must be, first, to identify the problem structures and, second, to find some effective means to teaching our students to read them with understanding" (Eskey, 1971: 15). Later in that decade Kenneth Goodman and Frank Smith introduced a new psycholinguistic model in which it was postulated that "Efficient reading does not result from precise perception and identification of all elements but from the skill in selecting the fewest, most productive cues necessary to produce guesses which are right the first time" (Goodman, 1967: 25). They also maintained that reading was only incidentally visual. In the 1980s an interactive model or the schema theory was introduced. Building upon the notion that reading is only incidentally visual, it

emphasized that "... meaning is not fully present in a text waiting to be decoded. Rather, meaning is created through the interaction of text and reader" (Silberstein, 1987: 31). Readers use their prior knowledge of the world and experiences to access the information in the text (see 2.5).

The problem with the schema theory is that it assumes the presence of a skilful, fluent reader for whom recognition and decoding have become automatized. Many ESL advanced learners, however, still need to have emphasis placed on the lower level skills or bottom-up skills before they are made to rely more on the use of top-down skills (Paran, 1996: 30). Besides prior content schemata, Carrell (1988: 4) argues that readers need to have the linguistic schemata as well. Supporting this view, Eskey (1988: 96) notes that "In this model, *interactive* refers to the interaction between bottom-up decoding and information provided by means of top-down analysis ... It can accommodate the problems of developing less-than-fluent readers, such as second language readers, who still need as much help in holding in the bottom (that is, in simple decoding) as they do in performing higher-level interpretations of texts." What is common in all advanced reading processes is, according to Jordan (1997: 143), the fact that when students read, it is for a *purpose*, which may include:

* to obtain information (facts, data, etc.)
* to understand ideas or theories, etc.
* to discover author's viewpoints
* to seek evidence for their own points of view (and to quote) all of which may be needed for writing their essays, etc.

Since no single approach is adequate in itself, the 1990s seem to favour a multi-faceted approach (Grabe, 1991; Wallace, 1992; Paran, 1996). Grabe (1991: 379) says that this approach has led researchers to propose the teaching of competent reading into at least seven general knowledge areas:

1. Automatic recognition skills
2. Vocabulary
3. Structural knowledge
3. Formal discourse structure knowledge

4. Content/world background knowledge
5. Synthesis and critical evaluation skills/strategies
6. Metacognitive knowledge
7. Speed reading.

3.5.4.1 Automatic recognition skills

Grabe (1991: 380) states that "Many researchers now believe that automatic lexical access is a necessary skill for fluent readers, and many less-skilled readers lack automaticity in lower-level processing." Grabe (1991: 391) says that orthographic differences between a student's L1 and English are likely to cause additional difficulties. Another problem they refer to is that differences between language with shallow and deep orthographic structure, that is, very regular sound-letter correspondences as is the case with South African indigenous languages, versus many irregular sound-letter correspondence like English, are potential sources of difficulty for some advanced ESL students (see 2.5). Incidental contact with language through extensive reading is a prime source for the development of automaticity.

3.5.4.2 Vocabulary

The need to read fluently, in a manner that is similar to a good L1 speaker, requires, according to Grabe (1991: 380), a knowledge of vocabulary that approximates that of an L1 speaker's, roughly 100 000 words. The vocabulary of a good L2 advanced student is estimated at 7 000 words (Grabe 1991: 380). Eskey (1988) points out that second language readers need to attend more to "bottom-up" features than do first language readers. Eskey's view is based on the incontrovertible fact that the former will have weaker linguistic competence than the latter and will therefore have less ability to draw on the range of cues - both within and external to the text - which are available to L1 readers. Moreover, linguistic differences between a student's L1 and L2 at the grammar level are likely to affect the L2 learner's comprehension negatively.

The teaching of vocabulary is often indirect at the advanced level. Often, once the selection of a reading text has been made, it serves as the basis for understanding content when key words are focussed upon (Van der Walt, 1982: 256). Vocabulary is also taught indirectly

when a rubric of a writing assignment is being analysed. Learning at the tertiary level is characterised by massive vocabulary expansion and the acquisition of this vocabulary should be taught directly. As Eskey (1973: 179) observes, "For advanced foreign students, vocabulary is crucial and probably should not be left to whatever turns up in the readings a particular teacher assigns. Words come in various systems and systems and may be directly and systematically taught." McCarthy (1991: 84) points out that the Graeco-Latin words found in argumentation and exposition, is typical of the kind of vocabulary that research has claimed produces a 'lexical bar', a serious obstacle to progress in education for ESL students (see 4.2).

A starting point could be the teaching of word-formation (McCarthy, 1990: 99). While language learners may not achieve the same level of competency as a native speaker with regard to the creation and understanding of derived and compound forms, a good deal can certainly be achieved by raising students' awareness of the word-formation processes of English (see 9.7.3.2). The teaching of vocabulary has often been limited to decoding, showing students the structure and the meaning of words just like the giving of a grammar or pronunciation rule (McCarthy, 1990: 5). But it can easily be expanded and used for encoding purposes as well. A group of highly productive affixes could be isolated and given to students to create words with. Some of the students' creations will most likely be words that already exist and some will probably be non-established words. The latter group should not be thrown away; it could be explored for literary value, humorous potential, or simply for filling in "gaps" in English. The study of word-formation can make students see that a relatively small number of processes are regularly used to create a large number of new words in a language like English. They can also deduce meaning of the words they have never encountered before by paying attention to the roots and affixes.

One of Halliday's (1978: 45) language functions, the ideational, focuses on the semantic aspect of language and this is what vocabulary is mainly about. It involves comparing and contrasting the lexis of the target with that of the first language. English might have two or more terms where students' L1 have only one, as is the case with the English "lend" and "borrow" as opposed to the single Setswana term, *adima*. Conversely, the L1 might have two terms or more where English has only one. For example, in Setswana there are three terms for the single English term, "uncle": *rrangwana* (paternal uncle who is younger than the

speaker's father), *rramogolo* (paternal uncle who is older than the speaker's father), and *malome* (maternal uncle). Because of this discrepancy, students sometimes have to "unpack" a loaded term such as *adima* in order to express a double meaning in English and they need to condense the multiple meaning of the Setswana terms for "uncle" into one word when speaking English.

In the use of metaphor, which, according to Lakoff and Johnson (1980: 57), is no occasional aberration but an all-pervasive phenomenon, ordinary meaning takes on new meaning. "Love", for instance, can be expressed as madness: *She drives me "insane"; He's gone all "ga-ga"*. Temperature is used as a metaphor for degrees of friendliness. A person may be "cool" or "cold" toward another or may be regarded to possess a "warm" disposition. Some positions are given value judgement as when "up" is associated with positive connotations in words like "top-dog", and "high-born" as opposed to "under" and "low" which evoke negative connotations in words like "underdog" and "low-born"(see 9.7.3.7).

Further, one of the aspects of teaching advanced vocabulary is that students should be able to match words with their situations (see 9.7.3.7). Broughton *et al.* (1978: 198) point out that it is not sufficient for an advanced student to only know that "kid" is an informal equivalent of "child"; students need to acquire the ability to write gracefully and outgrow the habit of writing stilted English. Advanced students' sense of prototypes should be developed. Native speakers have prototypes of their vocabulary. This means that some concepts are more salient or more central than others within the semantic field. A good example of how this works is given by McCarthy (1990: 15) where he writes: "If you are British, your prototype of "hat" may well be something of the kind associated with Queen Elizabeth's headgear, or else a bowler or a trilby type. But if I say 'the baby needs a "hat" the abstract domain is modified to exclude those types mentioned, and the world of babies has to be activated, with its typical bonnet-type headgear." The meaning in context of "hat" thus *emerges* or is *constructed*. In other words, text is in the mind rather than on the printed page. McCarthy (1990: 14) notes that "Recognising untypical collocations is often a problem for the L2 learner, who may miss the subtle layers of meaning in texts.

Advanced students should also be aware of the connotations words carry. Language users do not use words indiscriminately. They choose those that are the most effective in positioning

the reader. In the pairs "the homeless/squatter" and "freedom-fighters/terrorists", the first words have positive connotations and the second negative connotations (see 5.3).

3.5.4.3 Structural knowledge

At the advanced level academic texts use sentences that frequently have a great deal of subordination and co-ordination, which lend them a complex structure. This is more pronounced in legal texts (see 4.3). Identifying the subject and the predicate phrases helps immensely in decoding such texts. Secondly, students' awareness of the English structure needs to be drawn to the fact that advanced academic texts also carry many pro-forms like *one, there, so, it,* etc. which require one to know the referents for which they stand. Also important to be aware of are the cohesive devices such as substitution, ellipsis, lexical cohesion, repetition, parallelism and their function across sentences and paragraphs (see 7.7.2.1). Intensive reading can be of great help in teaching these aspects of structure.

3.5.4.4 Formal discourse structure

According to Grabe (1991: 380), there is considerable evidence that knowing how a text is organized improves comprehension. Good readers, for instance, appear to make better use of text organization than do poor readers, write better recalls by recognizing and using the same organizational structure as the text studied, and, generally, recall information better from certain types of text organization such as comparison-contrast. So, besides content schemata and linguistic schemata that readers need to possess in order to be good readers (Eskey, 1988: 96), they should also know the rhetorical structure of a text (see 4.4). Furthermore, advanced students need to be made aware that different cultures may prefer different ways of organizing information. The African information organization pattern, for instance, tends to be cyclical, while the Western tends to be linear. Thus, comprehension of a text may be culturally dependent according to the logical organization of the language being used.

3.5.4.5 Content/world background knowledge

Widdowson (1998: 5-8) states that simplicity of language is not to be equated with accessibility of meaning. One often needs to possess background knowledge in order for one

to understand a text. Lack of this information frequently leads to pragmatic incompetence. Being a native speaker of the language is no guarantee against pragmatic incompetence. Widdowson (1998: 8) quotes the following investment banking text to illustrate this point:

> Leading industrials records a majority of falls in the 2p to 8p range. Gilts also kept a low profile, with conventionals down a quarter and index-linked three-eight lower. Quiet builders provided a firm spot in Ward Holdings, up 17p to 177p following a 63 percent upsurge in pre-tax profits. Golds relinquished 50 cents to a dollar.

To an applied linguist like him, although the text appears simple, the meanings of the words like "gilts", "golds", "index-linked", and "conventionals" are inaccessible. What this illustrates is that lack of understanding happens not only when there is a disparity of linguistic knowledge, but also, crucially, when there is a cultural disparity: when the recipient is not a member of the same discourse community (see 2.5).

3.5.4.6 Metacognitive knowledge

Metacognitive knowledge is "... the knowledge of one's cognitive processes related to learning and the cognitive processes of others" (O'Malley & Chamot, 1990: 230). In a study on the strategies second-language students use when taking notes, it is indicated that if these students are not taught appropriate academic skills *explicitly*, they develop ineffective strategies, such as relying solely on the textbook and on rote learning (Adamson, 1990: 75). Learning strategies can be divided into three categories: metacognitive strategies, cognitive strategies and social/affective strategies (O'Malley & Chamot, 1990: 44-45).

Metacognitive strategies are higher order executive skills that entail planning, selective attention and monitoring or evaluation of success of learning of a learning activity (see 5.3).

Cognitive strategies operate directly on incoming information, manipulating it in ways that enhance learning. They involve rehearsing, organizing, elaborating, inferencing, summarizing, the use of imagery, transfer, separating main points from details, adjusting reading rate, using context to sort out a misunderstood segment, using word-form to guess the meaning of unknown words, using non-linear information, taking and making notes,

underlining, skimming and scanning, formulating questions about the text, using a dictionary judiciously and so on (see 5.3).

Social/affective strategies involve interacting with another person or "ideational control over affect" (Mitchell, 1996: 44-45). Co-operation, questioning, rephrasing giving examples and self-talk in order to reduce anxiety are some of the mental activities under this category (see 5.3).

Learning strategies are important for efficient studying. In advanced second language contexts, better readers have been shown to be better strategy users (Grabe, 1991; O' Malley & Chamot, 1990). O'Malley and Chamot (1990: 133) contend that " ... instructional approaches that rely exclusively on teacher input or other teacher techniques that function independently of how students process information are failing to draw upon what students can contribute to the learning process. By failing to draw upon the students as a resource in instruction, these techniques diminish the chances of student success and exclude them from opportunities to gain independent control over the learning process."

3.5.4.7 Synthesising information and critical evaluation

Good readers not only seek to comprehend a text when they read; they synthesize what they read with other sources of knowledge and critique it as well. So reading at the advanced level, like writing, requires the possession of cognitive academic language proficiency (CALP) skills (Starfield, 1994: 176). One of these CALP skills should aim at raising learners' awareness of intertextuality or cross-referencing. Wallace (1994: 47) says that "Texts have a history and may fit into a sequence of other texts. This means that it is not just psychological and cognitive factors which influence our interpretation of texts, but social ones as well" (see 5.3).

Advanced learners are expected to be critical (Murray & Johanson, 1989a: 155). They should separate fact from opinion, be aware of relationships, critically relate their background knowledge to their readings and make synthesis, paraphrases, inferences, and evaluations in a style that is suitable to the discipline they are studying. Wallace (1994: 45) makes a distinction between a submissive and resistant reader and says that the submissive reader's

interpretation is likely to be the one intended by the writer, while the assertive reader, with distinct purposes of his or her own, can derive quite a different interpretation. An over-reverential attitude may be a particular temptation for second language learners whose L2 is deficient and whose culture is being dominated by that of their target language community. They may find an L2 text intimidating because of its linguistic and/or schematic demands (see 2.6.3).

3.5.4.8 Reading speed

Murray and Johanson (1989a: 31) remark that "It is particularly important for a college or university student to be able to read fairly quickly, because students are required to do a great deal of reading. A survey at a South African university revealed that, on average, lecturers required first-year students to read 40 pages a week for each course." Murray and Johanson (1989a: 31) say that for an L1 speaker of average education and intelligence, the reading rate is about 300 w.p.m. They further point out that "research indicates that in countries where English is a second language, secondary school pupils usually read at 120-150 w.p.m. before training and university students at a speed of about 200 w.p.m" (Murray & Johanson, 1989a: 31).

It has been indicated that English is introduced as a medium of instruction prematurely in black schools: before students can read fluently (McDonald, 1990: 35) and there are few books in these students' home language on which they can practise reading (Gennrich *et al.*, 1996: 11). In many schools, reading means reading aloud, and reading aloud means reading one word at a time rather than a phrase or meaning. These factors militate against efficient reading (see 2.6.3). If students cannot read fast in their home language, they will be even slower in English. Besides focusing on individual words, some of the problems that reduce reading speed, according to Murray and Johanson (1989: 40-41), are the following: vocalization, subvocalization, pointing at the words, regression, and over-reliance on the dictionary.

Students could be given exercises that merely aim at increasing their speed because, as Murray and Johanson (1989a: 45) say, "You will find that after an exercise like this, your general speed will be faster ... like a car which has been travelling at 180 k.p.h. and finds it

difficult to slow down to 60!" Extensive reading can be of great help in this regard. But Kilfoil and Van der Walt, (1997: 190) emphasise that "Speed reading at the advanced level should try to develop students' reading speed to the extent that it does not hinder comprehension." Mosback and Mosback (1980: ix) also say that "Exercises should certainly increase speed, but they should also improve comprehension in the areas of vocabulary, sentence pattern and paragraph structure." Murray and Johanson (1989a: 32) conclude that " ... it is possible to improve one's speed and comprehension in a second language. With practice, second-language users can achieve the same speed as native speakers, and in some cases, faster speed".

3.5.6 Writing

Both students and academics recognise the difficulties associated with student writing. The problems academics cite range from poor spelling and punctuation through inappropriate use of formats, poor referencing, and plagiarism to difficulty in developing a coherent argument (Gennrich *et al.*, 1996: 17). Most first-year students worry about their writing. They report feeling anxious about the poor marks they repeatedly get in their essays and do not enjoy writing (Gennrich *et al.*, 1996: 17-18).

3.5.6.1 Raison d'être for advanced writing

Writing is an integral part of the two major processes of learning, namely, thinking and problem solving and as such, should be central to the curriculum of every university course of study (Radloff, 1994: 5). Unfortunately the development of writing is often marginalised or even ignored altogether in many disciplines. There are various reasons why this is so. One of the most common excuses is the lack of know-how in teaching writing prevalent amongst non-language specialists. Most of them regard themselves as subject experts with little interest or ability to teach writing. Another problem is that subject specialists may perceive the teaching of writing as dealing with grammar and spelling (see 2.6.4). They may assume that students come to them with writing skills fully developed, and perceive writing as a tool for communicating what students already know rather than a tool for learning. In short, they focus on the product rather than the process. Students who have writing difficulties are then seen as lacking skills and therefore requiring remediation that should be provided by some

other agency such as EAS. Writing, however, is an important tool for making sense of the many problems and complicated materials in the whole academe.

Advanced students, like first-year law students, need to have good writing skills for them to be able to write assignments, projects, test and examinations well (see 7.3.1; 7.3.3). Legal practice also involves a great deal of writing: writing reports, letters and academic papers (see 6.4.1).

Many students, according to Radloff (1994: 2), fail to develop their writing skills in their undergraduate years and leave university with skills that fall below the expectations of employers and society in general. Universities have to address this problem urgently, especially with the current emphasis on quality, accountability and the growing competition between universities for students.

3.5.6.2 Demands of advanced writing

Like reading, academic writing requires possession of cognitive academic language proficiency (CALP) skills. Since it is context-reduced and more cognitively demanding than encoding a non-academic message in a face-to-face situation academic writing is all the more difficult to acquire (Starfield, 1994: 178-179). Paralinguistic and situational cues as well as automatisation of some utterances help convey meaning in a face-to-face, non-academic environment. In academic writing, the creation of meaning depends solely on the efficient employment of the code being used (see 2.7.4).

Radloff (1994: 2) notes that probably the main reason why students experience problems in writing is that they cannot transfer their declarative knowledge into procedural knowledge. Students may know that a piece of writing has a beginning, main body and conclusion (declarative knowledge) but fail to write each of these parts (procedural knowledge). In other words, students may have declarative knowledge but be unable to translate it into action. As Radloff (1994: 5) found when she examined students' use of study manual advice on writing, "'knowing' is not easily translated into 'doing'" (see 8.8).

3.5.6.3 The writing spectrum

Writing tasks are often selected for their position in the control-to-freedom spectrum: learners at an elementary level are assigned writing for reinforcement, then as they become linguistically more adept, they are assigned more demanding tasks that stress training, imitation, communication, and fluency, often in that order (Raimes, 1987: 36). University writing, especially in remedial first-year courses, often has some elements of these types of writing, so they are discussed first and then a discussion of a far more complex aspect of writing, writing for learning follows (see 9.8.3–9.8.18).

3.5.6.3 (i) Writing for reinforcement

Writing for reinforcement was popularized by the audiolingual approach. It viewed speech as the major language learning skill. Writing played a secondary role: that of reinforcing oral patterns of the language or as an aid to memory. So teachers supplied students with sentences, sometimes short passages and sometimes a series of pictures to serve as stimuli to drill grammatical concepts. In these exercises students completed the provided sentences by adding a word or transforming them. Writing required students to demonstrate structural accuracy; first orally or through reading and then writing to the teacher.

3.5.6.3 (ii) Writing for training

Writing for training is comparable to controlled composition. Raimes (1987: 36) points out that it "is similar to writing to reinforcement, only that it is not limited to the reinforcement of grammatical structures previously presented in another mode. Rather, writing used for the purpose of training initially presents students with patterns of linguistic and rhetorical forms that might be new to them and gives them practice in using and manipulating these new patterns." The manipulation of rhetorical and grammatical structures often involves the use of transformations, varying sentence length and choosing stylistic and register options. Students may be asked to manipulate a linguistic form of a paragraph or they may be given random sentences to re-arrange so that they form a coherent paragraph; they may be asked to identify a sentence in a paragraph that does not belong; they may be given a topic sentence and asked to supply it with a detail or two with examples.

3.5.6.3 (iii) Writing for imitation

Writing for imitation uses models of either content or form or sometimes both as the basis for writing. Teachers who use this kind of writing want their students to become familiar with rhetorical and syntactic forms of a larger text than what is traditionally used in writing for training by following carefully chosen models. Raimes (1987: 37) gives the following forms:

(a) Students write a composition according to given guidelines about content and organization.

(b) Students study a passage that is outlined or analysed, and write a piece with parallel organization.

(c) Students read an essay, such as one classifying attitudes toward money, analyse its organizational pattern, and write a similarly organized essay on a related topic, such as a classification of attitudes toward work or trade.

Through this writing students are exposed to the pattern of linear development which is characteristic of English prose, that is, generalizations followed by supporting details, chronological or spatial order, comparison and contrast, etc.

Although these three types of writing may help students understand the nature of an English text, their efficacy is limited. The students' writing is usually judged not on the quality of the ideas it expresses but on how successfully it has adhered to the model. The danger of too heavy a concentration on this type of writing is that students will perceive writing as nothing more than an exercise in accuracy; when they become more fluent, more skilled in English, and more ready to experiment and take risks, they may be so used to putting accuracy first that this inhibits the production of ideas and creativity.

3.5.6.3 (iv) Writing for communicative competence

The concept of communicative competence has emphasised the futility of writing in a void and brought issues such as the writer's purpose and awareness of one's audience to the centre stage. Tutors now frequently postulate readers other than themselves for compositions:

"Write a letter to one of your clients and explain the moral reasons that have made you decide not to act as his/her advocate any longer." Communicative writing can be task-based and occur between students. For example, one student could look at a picture and write a description of it on a piece of paper. The description should then be shown to the partner who has not seen the picture and who should draw the diagram from the description provided. If the diagram is wrong, the description should be made clearer so that the diagram is correct.

The danger in writing for communication is that it tends to regard the function of language merely as a vehicle for transmitting information from one person to another; it tends to ignore the use of language as means "for thinking, for forming concepts and fashioning propositions" (Widdowson, 1980: 235). Radloff (1994: 12) shows the link between writing and learning well when she notes that "Writing organises and clarifies our thoughts. Writing is how we think our way into a subject and make it our own. Writing enables us to find out what we know - and what we don't know - about whatever we're trying to learn."

3.5.6.3 (v) Writing for fluency

Writing for fluency evokes the dichotomies between fluency versus accuracy, content versus form and process versus product. When Widdowson (1983: 42) speaks of accuracy being "a necessary condition for fluency", he is referring to a finished text, one "deliberately fashioned for the use of others" and having to meet "certain acceptable standards of social acceptability". However, writing assigned for the purposes of developing fluency rather than demonstrating accuracy does not necessarily require these standards. Writing for fluency views writing as a way to generate and discover ideas. Examples here include daily journals, free writing, listing, brainstorming, drafts, and revisions (see 5.6.2.1). In these tasks students are usually free to generate their own content; they are urged to concentrate on ideas and not to be concerned about spelling and grammar until they are satisfied enough with their content. The tutors' evaluation focus is mainly on content when they give feedback.

3.5.6.3 (vi) Writing for learning

Writing for reinforcement, writing for training, for imitation, communication, and fluency are all necessary, to varying degrees, at university level and none of them is adequate by itself.

What is needed, however, is a unified rather than a developmental-skills approach that presents all these skills under one overarching philosophy that could be used in teaching writing at the advanced level. Writing for the purpose of learning provides the framework for teaching all the writing activities mentioned above and presents them as a way for learning a language as well as for learning more about the subject matter being written about. Another merit of an integrated approach is that it can be tailored to address students' needs. In the historically disadvantaged universities of South Africa one often finds that, although writing is mainly expository, many ESL students are underprepared for this kind of writing, so it would be advisable to emphasise the teaching of lower level skills first before full-scale expository writing is engaged in (see 7.6.6).

In writing for learning, the emphasis is no longer on the text itself and on the accuracy of the finished product, as it is with writing for reinforcement, training and imitation. The emphasis is no longer on the reader, as it is with writing for communication, nor is it on the writer's strategies and content, as it is with writing for fluency. Rather, it encompasses all three points of the communication triangle; writer, reader, and text, and thus becomes truly interactive and communicative. When writing stresses learning, teachers and students begin with content, not with grammar or form. Students brainstorm the subject, read about it, synthesise their ideas with those of others, reject and expand their ideas as they gather and generate more information and feedback from their peers, reformulate and reorganize their draft, attend to accuracy, style and register in a selective but connected way. When form and grammar corrections are made, they are done within the context of the topic at hand, so they address students' needs directly. This approach emphasises Widdowson's idea of academic writing mentioned earlier, i.e. because the learning of a language means acquiring the ability to handle discourse, which in turn depends on a disciplinary knowledge framework, language teaching should be linked to real contexts of use (see 1.2). In this case, the teaching of writing should be subject-related. As Russels (1990: 53) notes, "education is initiation into a discourse community, a process of learning how to use language in certain ways; to become accepted, literate or ... credentialed in some profession." In short, the ultimate goal of advanced academic writing is to create meaning, and students learn to write in different subjects by writing in those subjects rather than by writing in general composition classes divorced from the content and language of the particular subject.

3.5.6 Grammar

Grammar comprises two components, syntax and morphology. Batstone (1994: 10) indicates that the word "syntax" comes from Greek and means "a setting out together" or "togetherness". Putting together what is perceived to belong together is the central principle in syntax. "Morphology" is also derived from a Greek word, *morphe* which means "form". In ELT "morphology" refers to the way words are constructed with stems, prefixes, and suffixes (*Collins COBUILD English Dictionary* 1995). The word "grammar" itself comes from the Greek term, *gramma*, which means "of letters" (*The Concise Oxford Dictionary of Current English*, 1992).

Kilfoil and Van der Walt (1997: 66-67) remark that "Few issues in language teaching have been as hotly debated as the teaching of grammar or structure. All language teachers seem to agree that it should have a place in the teaching of a second language, but few seem to agree as to the relative size of this place and even fewer agree on a method for grammar teaching".

As regards the place of grammar in language learning, there have been different views about the efficacy of formal instruction. It was once believed that continual correction of grammar in exercises and essays was the language teacher's main duty. Dulay, Burt and Krashen (1982: 35-36) however, regard formal instruction as playing only a "monitoring" role. As far as they are concerned, learning and learned rules have only one function: to serve as a monitor or editor of utterances initiated by the acquired system. Acquisition, on the other hand, is, they argue, a subconscious process which leads to development of competence and is not dependent on the teaching of grammatical rules. Learning cannot lead to acquisition. But it has been shown that formal instruction does not only improve the rate of acquisition but also the student's ultimate competency as well in terms of linguistic competence (Long, 1983) and in terms of fluency (Brumfit, 1984). Ellis (1995: 611-663) maintains that "there is considerable evidence to indicate that instruction does make a difference." Although children may be more likely to acquire a native grammatical competence than adults, some adult learners may succeed in acquiring native levels of grammatical accuracy in speech and writing and even full linguistic competence (see 2.4) because, unlike the acquisition of pronunciation, the process of acquiring an L2 grammar is not substantially affected by age (Ellis, 1995: 611-663). Larsen-Freeman (1987: 2-10) also points out that "in our enthusiasm

to embrace the notion of communicative competence, I fear we may have emphasised the functions too much over the forms and thus have sacrificed accuracy to fluency. Both, in my opinion are an integral part of communicative competence". Formal instruction, then, can facilitate acquisition, particularly where it is linked to opportunities for natural communication (Fotos & Ellis, 1991: 607).

Secondly, grammaticization offers students freedom from the confines of the here and now. To ponder events (both real and imaginary, and dislocated in time and space), to hypothesize, and to engage in debate, one has to grammaticize (see 7.7.2.4). Batstone (1994: 31) observes that "The less effective the words are in identifying relevant features of context ... the more dependent they become on grammatical modification of one sort or another ... grammar is not a constraining imposition but a liberating force: it frees us from a dependency on context and the limitations of a purely lexical categorization of reality." Advanced university students deal with a great deal of context-reduced communication in which the learner relies on the knowledge of the code itself for encoding and decoding information (Starfield, 1994: 176-179). Grammatical competency is, therefore, of crucial importance to them.

Thirdly, grammar could be viewed as a liberal study, that is, as an end in itself (see 2.4). At university level subjects can roughly be classified into content and skill courses. This division is not watertight: although one characteristic may predominate in one course, a course has often a element of each category. Although the study of practical English in the EAS course is mainly skill-based, it has a fair amount of content to it. It is this content that becomes the object of study when English is seen from the viewpoint of liberal arts. Such an approach is fitting at university because, as Kilfoil and Van der Walt (1997: 72) note adult learners often demand the use of linguistic terminology in their classes. In addition, Broughton (1978: 88) points out that beyond improving the advanced student's use of the language, it should be possible at this level to increase his knowledge *about* English. In other words, grammar equips students with metalinguistic knowledge, which according to O'Malley and Chamot (1990: 121), is "... the ability to reflect on the forms and structures of a language independently from its informational or social functions and to analyse language structure overtly".

Fourthly, grammar serves an important identity function. Widdowson (1994: 280) holds that like spelling, grammaticality is, as far as the conveying of meaning is concerned, not as important as it is often suggested. Widdowson's argument is that because language has built-in redundancy, grammatical conformity is actually not particularly crucial for many kinds of communicative transaction. He says that "What we generally do in the interpretative process is actually to edit grammar out of the text, referring lexis directly to context, using lexical items as indexical clues to meaning. We edit grammar back in when we need it for fine tuning. If the reason for insisting on standard English is because it guarantees effective communication, then the emphasis should logically be on vocabulary rather than grammar." The actual reason for insisting on the importance of grammar is that it expresses social identity (see 7.4.8; 7.5.3). The mastery of a particular grammatical system, especially those features which are redundant, marks the speaker/writer as a member of an exclusive discourse community. Those who cannot master it are excluded from such a group. In the words of Arnold (1991: 3), "It is no use saying it doesn't matter how they are performing in the language as long as they get their message across. Most of the learners we are dealing with want to sound like educated individuals; they don't want just to get messages across with gestures and crude words without proper morphemes and so on."

Fifthly, the importance of acquiring "appropriate" uses of English to advanced students can lay the foundation for raising students' critical language awareness. Janks (1993: preface) says that "When people use language to speak or write, they have to make many choices. They have to decide what words to use, whether to include adjectives and adverbs, whether to use the present, the past or the future, whether to use sexist or non-sexist pronouns, whether to join sentences or leave them separate, how to sequence information, whether to be definite or tentative, approving or disapproving. What all these choices mean is that written and spoken texts are constructed from a range of possible options." Grammar needs, therefore, to raise students' awareness of the fact that texts are constructed and that anything that has been constructed can be de-constructed. Students' level of critical language awareness is often high where the learner's grammar is good.

As for the amount of proportion of form-based to meaning-based grammar input in a practical English course, the deciding factor should be students' needs (see 8.13.5). These elements could be represented on a continuum that starts with very tightly controlled exercises in

which the utterances of the learners are predetermined, possibly those in which only one element is transformed, to a large extent, to less controlled, more open-ended activities. With more advanced classes the number of tightly-controlled exercises should be far smaller than the number of open-ended, communicative tasks (Kilfoil & Van der Walt, 1997; Yalden, 1983, 1987).

3.6 Conclusion

The chapter has explained what the process of teaching and learning English as a second language at tertiary level in South Africa entails. This process is understood better if it is seen against its historical and ideogical background. Using stock-in-trade terms to define what is meant by the phrases such as "ESL", "advanced students" and "standard English" can be misleading. An accurate meaning of these phrases can be drawn from the dynamics of situations in which they are used.

The teaching and learning of practical English at the advanced level often involves listening, especially in note-taking, talking particularly in seminars, reading, writing, and grammar. As first-year law students at UNW are underprepared in terms of these demands, the practical English course that these students take should address this deficiency so that they can study confidently and successfully through the medium of English as real advanced students. One of the best ways of doing this is to use content-based teaching, that is, relating language acquisition to students content, which in this case, is law. So the next chapter explores Legal English.

Chapter 4

LEGAL ENGLISH

4.1 Introduction

People often use a technical jargon when they talk about their professions. This type of language use is referred to as register. Platt *et al.* (1985: 242) define register as "A speech variety used by a particular group of people, usually sharing the same occupation ... or the same interest". A particular register often distinguishes itself from other registers by having a number of distinctive words, by using words or phrases in a particular way. Thus, law practitioners have a unique way of talking about their subject matter. This is referred to as Legal English. Whether in spoken or in written form, Legal English is usually formal and has been criticized for being too much so. In the words of Crystal (1995: 374), "Legal language ... shares with (the language of) science a concern for coherence and precision. It shares with (the language of) religion a respect for ritual and historical tradition. It also shares in the criticisms which these other varieties attract: like science, it is cautioned for its impenetrability; like religion, it is thought wilful in its mystique." Law students' awareness of this variety needs to be raised because they encounter a great deal of it in their programme, especially when they deal with legal judgments and cases. As Lewis (1972: 15) observes "much of a law student's confusion, bewilderment and frustration arises because he is not being taught law only - he is being taught a foreign language as well." Since this study deals more with written Legal English than with its spoken counterpart, the focus of this chapter is mainly on written Legal English.

The chapter investigates, first, three aspects of legal writing, i.e. lexical features, syntactic features, and generic features. The analysis of lexico-grammatical features will be linked to genre analysis because, as Bhatia (1993) points out, linguistic analysis of a legal text, by itself, is less important. It acquires significance only when it is juxtaposed to textualization and generic structure where it can explain more adequately what aspects of legal notions it helps to express. In this way, linguistic description is taken a step further in the direction of explanation; it is put in genre analysis. Secondly, the chapter briefly examines spoken Legal English. Lastly, it discusses the Plain English Movement.

4. 2 Lexical features

Crystal and Davy (1986: 207) note that "The range of vocabulary that may be met in legal language is extremely wide, since almost anything ... may become the subject of legislation or legal tabulation in some way or other" (see 3.5.4). There are, however, functions and features of the lexis that make legal vocabulary unique. Asher and Simpson (1994: 2085) remark that "A vast amount of what goes on in court and in the legal literature is a dispute about the way words are to be interpreted. The law is truly, to quote Mellinkoff, 'a profession of words'". Crystal (1987: 386) offers the following explanation:

> A great deal of the idiosyncrasy of legal language can be explained with reference to its origins. After the Norman conquest, which occurred in 1066, legal varieties of Latin and French were used in the British legal system. This distanced legal parlance from ordinary people who were using Anglo Saxon. In the 17th century when English became the official language of law in Britain, a large lexis of Latin (*ex parte, cum testamento*) and French (*lien* and *plaintiff*) had become too entrenched in legal language usage to be substituted by new words. This was supplemented by ceremonial phrases such as "signed, sealed and delivered". As English spread around the globe, so the lexis of English common law moved with it. Respect for tradition and a suspicion of change accompanied this process and made legal English unique.

Crystal (1987: 15) also states that Legal English is based largely on a small number of lexical features. He mentions, for example, modal verbs (*must, shall, may*) used to make a distinction between obligation and discretion; pronouns (*all, whoever*) used to promote the general applicability of a law; generic nouns (*vehicle, person*) used also to promote generality.

Danet (1985) and Mellinkoff (1963) give Legal English a broader base and list the following features:

(i) Technical terms: *forfeiture*(crime), *homicide* (killing of a person)

(ii) Common words with uncommon meaning or semantic appropriation: *action* (law suit), *party* (one of the persons or sides in a legal agreement or dispute)

(iii) Polysyllabic words: *misdemeanour, jurisdiction*

(iv) Unusual prepositional phrases: *without prejudice* (without loss of any right), *in so far as* (because of)

(v) Doublets: *aid and abet, by or on behalf of*

(vi) Formal words: *change* becomes *altered, modified* or *transformed, able to get back* becomes *entitled to recover*

(vii) Archaic reference terms: *hereinbefore, aforesaid*

(viii) Vagueness: *sound, sufficient*

(ix) Over-precision: *homicide* is split into *regicide, genocide infanticide* and *manslaughter*

(x) Latin and French vocabulary: *mutatis mutandis,* (making the necessary alterations), *fait accompli* (something that has been done and is past arguing against or altering).

The above-mentioned features of Legal English lend legal discourse characteristic textualization. For instance, unlike main verbs that may denote concrete action or state, *may, shall* and *must* express the mood of a verb often found in legalese. *Shall* and *must* are normally used to denote obligation (or lack of it):

1. "The warranty *shall* apply only to appliances purchased and retained for use in the Republic of South Africa" (Appendix A, clause 4).
2. A province or a municipality may raise loans for capital or current expenditure in accordance with reasonable conditions determined by national legislation, but loans for current expenditure-

   ... *must* be repaid within twelve months (*The Constitution of the Republic of South Africa*, 1996, chapter 13 section 230,1)

May is normally used to denote discretion:

"Religious observation *may* be conducted at state or state aided institutions" (*The Constitution of the Republic of South Africa*, 1996, chapter 2 section 15, 2).

Latin and French words, polysyllabic words, unusual words, and highly formal vocabulary all shift the mind from the immediate and confront it with the unusual. The higher proportion of Romance to Germanic words often found in Legal English can be equalled by only a few

other varieties (Crystal & Davy, 1986: 205). In a sentence such as, "*Failure to produce this certificate and your purchase invoice will result in a charge being levied for work done even if the appliance is still claimed to be in the Warranty period* (Appendix A, clause 5), there are twelve Romance words (*failure, produce, certificate, purchase, invoice, result, charge, levied, appliance, claimed, warranty, period*) as against (grammatical functors excluded) only two Germanic words (*work, done*). Unusualness of expression tends to lend dignity to an utterance.

Where the nominal is premodified, one often finds words like *such, said or aforesaid* in the determiner position, because the maintenance of precision is paramount in Legal English. Crystal and Davy (1969: 206) note that "The use of *such* as a determiner, unaccompanied by the indefinite article that would be expected in most other varieties, is of course one of the most readily recognisable marks of legal language". *Any* occurs frequently in a legal text and it is often redundant (Danet, 1985: 281). This redundancy may be distracting to the reader.

The use of common words to refer to a special meaning or semantic appropriation is comparable to the use of metaphors in general English and is some shorthand for legal concepts that would demand a great deal of effort to explain if ordinary language were used. Some doublets are synonyms; others are not. *Cease* and *desist*, for example, are synonymous but *rights* and *remedies* carry different meanings. Synonymous doublets usually emphasise what is being said and the non-synonymous ones are additive or offer options (see Appendix C question 26).

Where over-precision occurs, a general term is subdivided into more specific referents. A term like *homicide* is split into *regicide, infanticide, genocide, manslaughter* and *femicide*. Crystal (1987: 235) observes that legal language alone has the duty of imposing precision on the fuzziness of English lexicon. An example he gives in this regard is that if a law relates to birds, it might have to specify whether an ostrich, a bird that cannot fly, is included under this superordinate. As legal draftsmen are well aware of the age-old human capacity to wriggle out of obligations and to stretch rights to unexpected limits, they attempt to guard against such eventualities, by defining their model world of obligations and rights, permissions and prohibitions as precisely, clearly and unambiguously as linguistic resources permit. A further complication is the fact that they deal with a universe of human behaviour which is

unrestricted, in that it is impossible to predict exactly what may happen within it. Nevertheless, while the phrasing of Legal English should be designed in such a way that it encompasses general applicability, it should be specific enough to apply to particular situations. Statements must be stable enough to be used always so that they could be seen as fair and consistent but at the same time they must be sensitive to new circumstances.

Conversely, vagueness involves the overbroadening of the semantic field, making a term such as *reasonable/reasonably* cover a wide range of possibilities. An example of such usage is, "A province or a municipality may raise loans for capital or current expenditure in accordance with *reasonable* conditions determined by national legislation ..." (*The Constitution of the Republic of South Africa,* Act 108 of 1996, chapter 13, 230, emphasis added). This confers enormous power to legal experts because, knowing more about the law, they are aware of the scope these possibilities cover (see 4.6). Non-specialists, however, might be blind to them.

Crystal and Davy (1969: 206) remark that the verb phrase in legal language is notable for the high proportion of non-finite verbs and for the number of finite verbs that are of the type modal auxiliary (usually shall) + be + past participle as in, for example, "Service under Warranty *will* only *be carried out* if this certificate together with your purchase invoice are produced" (see Appendix A, clause 5). The reason for this is that what is being said needs to be applicable to the future and not limited to the present or past.

4.3 Syntactic features

According to Danet (1985: 281-284), some of the syntactic features that characterize legal writing are the following:

(i) Long sentences and syntactic discontinuity
(ii) Preponderant nominalisation
(iii) High frequency of passives
(iv) High frequency of conditionals
(v) Syntactic discontinuity
(vi) Many prepositional phrases

(vii) Many negatives

(viii) Impersonal style

(ix) Parallel structures and listing

(x) Whiz-deletions

(xi) Noun chains

(xii) Unique determiners.

The features above and their use in textualizing legal language are discussed below.

(i) <u>Long sentences and syntactic discontinuity</u>

The length created by expanding S+V+O in legal writing makes sentences very long and often blurs interrelationships between clauses. Legal writing has a tendency to condense all the elements of a rule within the confines of one sentence. This originates from an early practice of statutory drafting where a single sentence expressed a single enactment (Maley, 1987: 39). The following sentence illustrates this point:

> At any time within two years from the date of purchase by the original purchaser, *the Company will* at its discretion *replace or repair* without cost to the owner, if necessary through a service agent, appointed by the Company, *any part* found by the company to be *defective* in the appliance (see Appendix A, clause 1).

There are five qualifying phrases before the agent, the Company, is mentioned: *at any time/within two years/from the date/of purchase/by the original purchaser.* Soon after the auxiliary verb is mentioned, there is information which comes before it (*at its discretion*) and a doublet verb, *replace or repair.* Then before the object, *any part*, is mentioned, many phrases distract the reader's mind and these are: two prepositional phrases, *without cost/to the owner*, an if-clause (*if necessary*), another prepositional phrase (*through a service agent*), and a whiz-deleted qualifying phrase (*appointed by the Company*) . The object itself is qualified by a whiz-deleted phrase (*found to be defective*) and a prepositional phrase (*in the appliance*). Expressing the same complex text above by using key words in it, one can simply say "The Company will replace any defective part". What is ironic is that these expansions are

supposed to make things clearer; but according to Danet (1985: 287) they only succeed in clouding them.

It would seem, however, that it is not sentence length *per se* that makes legal writing difficult to comprehend but the devices used to construct a sentence. Leech *et al.* (993: 103 & 107) mention two sets of subordination: direct and indirect subordination, and vertical and horizontal subordination. Direct subordination occurs when a unit can be part of another unit of the same status as when a clause is part of another clause: *"The witness was not cross-examined when her dumbness was discovered"*. Also, a prepositional phrase can modify a noun phrase as in, for example, *"of the principal Act"*. Indirect subordination occurs when the subordinate unit is of higher rank than the element it modifies. Thus although subordinate, the qualifying clause, *which has been tampered with,* in the phrase, *equipment which has been tampered with* (see Appendix A, clause 4) is of higher rank than the word it qualifies.

Horizontal complexity is about the number of words in a clause or phrase. The fewer the words there are, the less complex a phrase is in terms of word count. Vertical complexity varies with the position of the subordinated unit to the main verb. Right-branching subordination takes place after the main verb; left-branching subordination occurs before the main verb. Left-branching subordination appears to be more difficult, because it defers the realisation of the main clause as the following text shows:

> (1) *The Debtor* indebted to the Creditors respectively in the divers sums of money set opposite to their respective names in the Schedule hereto (such debts where more persons than one are parties hereto of the first part being unless otherwise described in that Schedule the Debtors' joint debts) and to other persons in divers sums of money and being unable to pay the same in full *has proposed to make such provision for the payment thereof as is hereafter contained* (see Appendix B, lines 19-24).

The information occurring between the subject, *the Debtor*, and the main verb, *has proposed*, in the sentence above makes decoding difficult. The identification of the main clause, which is crucial for understanding, becomes obscured by the intervening information. Readers have to work out first what elements this information expands before they comprehend the whole

sentence. By contrast, the following right-branching sentence is comparatively easier to comprehend because only the word *not* comes between S-V-O: *"These warranties do not apply to light bulbs, fuses, epoxy coatings, glass/ceramic turntable platter, vitreous enamel or to items where the length of life depends on the amount of use and care given"* (Appendix A, clause 3).

Bhatia (1993: 115) notes that insertions can cause ambiguity if they are not placed judiciously. In his words, "That is the main reason why legal draftsmen try to insert qualifications right next to the word they are meant to qualify, even at the cost of making their legislative sentence inelegant, awkward or tortuous but never ambiguous, if they can help it". He gives the following example of an awkward, discontinuous noun phrase to illustrate this point:

> A secure tenant has *the right-*
>
> (a) if the dwelling-house is a house, *to acquire the freehold of the dwelling-house;*
>
> (b) if the dwelling-house is a flat, *to be granted a long lease of the dwelling-house.*
>
> Contrast:
>
> If the dwelling-house is a house or a flat, a secure tenant has the right to be granted acquire the freehold of the dwelling-house and to be granted a long lease of it.

The last version reads better but, unlike the sentence in legalese, it does not make it clear what rule applies under what condition. The inversions that break the syntactic rules of normal expression which one often encounters in legal writing is perhaps another example of how important the retention of precision can be in some registers. The order participle + adverb as in *contained herein* and *assured hereby* may be turned into the sequence adverb + participle in *herein contained* and *hereby assured* respectively.

(ii) Preponderant nominalisation

Nominalisation brings about a high level of formality, which distances legal writing from the ordinary and tends to make it less easy to challenge. Words can be grouped into "form classes" under which are nouns, verbs, adjectives and adverbs and their extensions and

corresponding phrases. Another group is that of "function classes", which determine the position and necessity of a word in an utterance, such as the Subject (S), Verb (V) and Object (O) or Complement (C) (Leech *et al.*, 1993: 2-33). The order of these words in a sentence corresponds to their function, in that the subject position comes before that of the verb, which in turn, comes before that of the object or complement. Nominalisation upsets this pattern in a number of ways. Through derivation, a word from the verb position can be transferred to the subject position. For example, *legislation* is derived from *legislate.* This transference robs the noun of its basic denotation that of suggesting agents and not processes as verbs do. Nominalisation makes nouns suggest both agents and processes. In an utterance like *The Legislature passed a law*, the agents involved in legislation are not specified in the nominalised form of the verb *to legislate*. The basic relationship between form, function and position is breached. Nouns and verbs fall under different form classes and play different functions in an utterance. Upsetting these divisions makes meaning less distinct.

Furthermore, formality in legal discourse occurs when basic nouns, which often reflect number, are nominalised and subsequently lose their precision of number. In a sentence like *The Legislature has passed a law*, it is unclear how many legislators were involved in the passing of the law mentioned. Nominalisation can also conceal plurality. In an utterance like *Judgment was handed down*, the nominalised singular subject requires the verb to be also singular but the agents involved in this utterance are plural.

Maley (1987: 36) remarks that "Nominalisation objectifies the process and makes it possible to be treated as something apart from persons and time." Nominalisation contributes to the need of legal language to be authoritative (the obscured agents are less challengeable). Steward-Smith (1994: 10) says that it also promotes control by stressing process and thus putting the emphasis on behaviour, permissible and impermissible. If the prohibition *You are not allowed to spit*, is nominalised into *Spitting is not allowed*, the impermissible behaviour, i.e. spitting, is foregrounded.

Bhatia (1993: 156) notes that nominalisation is a very ancient and trusted linguistic device used by legal experts to achieve condensation and all-inclusiveness in their writing. The parliamentary draftspersons need to condense their long provisions into more precise, unambiguous and all-inclusive statements by incorporating all types of possible conditions

and contingencies that may arise during the course of the interpretation of a particular provision. The following text illustrates this point:

> (1) Delegates to the National Council of Provinces and the persons referred to in sections 66 and 67-
>
> (a) have freedom of speech in the Council and in its committees, subject to its rules and orders; and
>
> (b) are not liable to civil or ciminal proceedings, arrest improsonment or damages for-
>
> (i) anything that they have said in, produced before or submitted to the Council or any of its committees; or
>
> (ii) anything revealed as a result of anything that they have said in, produced before or submitted to the Council or any of its committees.
>
> (2) Other *previleges and immunities* of the National Council of Provinces, delegates to the Council and persons referred to in section 66 and 67 may be prescribed by national legislation (*The Constitution of the Republic of South Africa*, Act 108 of 1996, chapter 4, italics added).

"Privileges and immunities" above, serves as a superordinate that encompasses all the items that are mentioned in (b).

In addition, as in academic and scientific discourse, nominalisation is used to refer to the same idea repeatedly and saves the writer from repeating lengthy descriptions, thus promoting coherence. The use of "approval" in the text below makes it unnecessary to repeat the information that has gone before it.

> Subject to the general policy prescriptions applicable to the appointment of educators, every reappointment of an educator who has retired or has been retired on pension before reaching his/her retirement age shall be approved by the head of education or by the person to whom he/she has delegated such authority. By reappointment is meant any form of re-employment in a full-time or part-time capacity of an educator who has retired or has been retired on pension prematurely in terms of any of the

approved measures. Such *approval* shall be applicable only to reappointments to educator posts for which the State has accepted financial responsibility (*Government Gazette, Republic of South Africa*, 1995, 366 (16902): 1-16, italics added).

(iii) High frequency of passives

According to Quirk *et al.* (1990: 166), the passive is more commonly used in informative than in imaginative or informal writing. The unmarked order of most of English simple sentences is S+V+O as in, for example: *The trial judge will deny your motion.* Passivisation effects syntactic repositioning that upsets the interrelationship between function classes as the passivist version of the example sentence above shows in *Your motion will be denied by the trial judge.* The relationship between the Verb and the Object function classes is that the latter denotes the person or thing most intimately affected by the action or by the state denoted by the process (Leech *et al.*, 1993: 82). Passivisation puts the object before the verb, making it a "grammatical" subject, whereas in the active voice that subject is the "logical" object and comes after the verb (Leech *et al.*, 1993: 121). This reordering conceals the agent, because it backgrounds it or puts it in a less prominent position.

Agentless passives cause even more concealment because the agents, or the forces responsible for the process, are not mentioned. Stewart-Smith (1994: 11) indicates that leaving out the agent can be used to reinforce the illocutionary force of an utterance. She gives the following example to illustrate how this process takes place: *The admission of Advocates Amendment Act, 1987 (Act No. 17 of 1987) is hereby repealed.* The syntactic change that occurs here is that the affected occupies the place of the agent and becomes the theme and the agent is completely eliminated. This arrangement emphasises the abolition of the act all the more because it occupies the prominent first position.

The agent-process-affected order in passives is further upset by the use of auxiliary verb *be*. *Be* is a primary verb with auxiliary and copular functions. Copular verbs, such as *be, appear, look, feel, seem, become, grow* and *turn* link the object functioning element to the subject, but as a complement to that subject (Quirk *et al.*, 1990: 155). A complement differs from an object in that it adds meaning to another clause element, such as the subject or the object, as opposed to referring to the affected or recipient of the process (Quirk *et al.*1990: 150). This

structure not only moves the focus from the process-and-affected relationship of V+O, but creates a totally different syntactic form; a relational, not an actional, clause. This transformation, from a process to a state, is significant because "processes being under the control of agents, imply the possibility of modification, decision; whereas states are perceived as unalterable and thus to be put up with" (Fowler *et al.*, 1979: 31). Thus, in a sentence like *The case is dismissed*, the creation of stasis discourages further inquiry.

(iv) High frequency of conditionals

The rights that legal writing confers are not *carte blanche*. The conditions under which something is possible have to be specified (see 2.6.5). One of the devices legal writing uses to achieve this is the use of many conditional clauses because conditionals have a limiting effect. Especially where they follow the main clause, they may limit the rights of the person which have been stated earlier:

> At any time within two years form the date of purchase by the original purchaser, the Company will at its discretion replace or repair without cost to the owner, if necessary through a service agent, appointed by the Company, any part found by the Company to be defective in the appliance provided that:
> (a) In the case of non-portable appliances, such appliance is in a locality no further than 50km from the nearest Company Service Division (see Appendix A, clause 1).

The first conditional "if ... Company" restricts who may do the repairs: the Company may choose to use only its own agent and not the purchaser's. In the second conditional the insured learn that the promise given in the main clause does not apply to them if they live further than 50km from the Company's service division.

(vi) Many prepositional phrases

Danet (1985: 282) says that "A prominent feature of legal English is the high incidence of prepositional phrases, strung out one after the other." A good example of this is the following sentence: *At* any time *within* two years *from* the date *of* purchase *by* the original purchaser, the Company will *at* its discretion replace or repair *without* cost *to* the owner, if

necessary *through* a service agent appoint *by* the company any part found *by* the company to be defective ..." (see Appendix A, clause 1). The extensions of these prepositional phrases tend to make comprehension difficult because they delay the realisation of S+V+O.

(vii) Many negatives

Negation states what is not permissible. It is based on restricting rather than encouraging. When negative units are used in directives, the effect is doubly controlling, that is, to command as well as to restrict. The aim of legislation is to prevent undesirable behaviour, so legal restrictions are expressed in negative orders. There are overt and covert negations in legal writing. Overt negation occurs when adverbs such as *not* and *no* are added to verbs and affixes (*un-*, *non-*, *irr-*, *in-*, *im-* and *-less*) and the negative co-ordinators (*neither...nor*). Covert negation occurs when verbs with inherent negativity are used (*prohibit, preclude, lack, doubt, deny, control, ban*) and conjunctions which restrain action or put conditions upon it (*unless, except, provided that, without, but for*). But frequent occurrence of negation in legal writing demands that the reader operate in a referential mode of what is *not* rather than what *is* (see Appendix A, clause 2 & 3).

(viii) Impersonal style

The use of the passive lends an impersonal style to legal writing. Informal writing is usually not without the agent and the addressee is often referred to directly (see Appendix A, clause 1). Words like *I* and *you* and the third person occur frequently and involve the addresser and the addressee directly in what is being said. The exclusion of the addresser, the addressee and the agent in passives in legal writing causes it to be impersonal and distant. This style creates an illusion of objectivity. Danet (1985: 283) observes that "Even when texts are intended as a communication between two parties, they are typically cast in the third person. Loan forms used by banks may speak of *the borrower* and *the lender*, for instance. Although the pronoun *it* may occur as a dummy subject, it is seldom used as a pronominal. While it may perhaps be said that repetition is necessary in order to spell out if an issue is related to something that has already been stated or only to part of it, Crystal and Davy (1969: 202) point out that "it is not only simply that referential pronouns are avoided only where their used could raise genuine confusion; they seem to be eschewed as species".

Bhatia (1987: 232) mentions two causes of impersonal style in Legal English. One is that in most written varieties, the author is both the originator and the writer of what he creates, whereas in legislative provisions, the parliamentary draftsman is only the writer of the legislative act, which originates from the deliberations of a parliament in which he/she is never present. Similarly, in most varieties, the reader and the recipient for whom the document is meant are the same person, whereas in the case of legislative provisions, the document is meant for ordinary citizens but the real readers are lawyers and judges, who are responsible for interpreting these provisions for ordinary citizens (see 4.6).

(ix) Parallel structures and listing

Danet (1985: 283) notes that legal writing is also characterised by "elaborate parallel structures, a feature most often discussed by students of poetics, oral tradition, and literature". The following sentence illustrates parallelism based on the use of seven infinitives:

> *To carry on* the business (if any) of the Debtor and *to call* in collect and receive or sell and dispose of all or any part of the property either by public auction or private contract with liberty *to give* time for the payment of any purchase money or *to take* any security for the same or any part thereof and with full power *to bring, defend, compromise, or abandon* any legal proceedings relating to the trust estate or any part thereof and *to give* time for the payment of any debts owing to the Debtor and payment thereof between the Trustee and the Debtor or any other person in such manner and upon such terms as the Trustee shall think fit (see Appendix B, lines 50-60).

The italicized parallel structures above lend some dignity to the text and perhaps make the law more compelling to obey.

Another form of parellism that occurs frequently in bureaucratic writing such as Legal English is a noun chain (Wydick, 1994: 67). Some of the example of such chains are the following: *Law office management efficiency seminar* which could be simplified as *seminar on efficient management of law offices,* and *attorney clients trust fund bank account*

regulation, which can be rephrased as *regulation concerning bank accounts maintained by attorneys for clients' trust fund.*

Listing results from the need to make it clear whether or not a law is relevant to a particular situation. Thus, things that may be stated generally in everyday language are specified in legal writing. The Constitution of the Republic of South Africa Act 108 of 1996, Section 2. 9. 3 states, for example, that "The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language, and birth." When stated in simple terms, this provision reads: "The state may not unfairly discriminate against anyone on any grounds".

(x) Whiz-deletion

Whiz-deletion refers to the omission of a *wh*-form plus some form of the verb *to be.* Typical to legal discourse, Appendix B has many whiz-deletions. For instance, if written in full *property held by the Debtor* (line 27) becomes *property which is held by the Debtor;* and *all shares standing in the name of the Debtor* (line 29) becomes *all shares which are standing in the name of the Debtor.* Danet (1985: 287) remarks that in a study of comprehensibility of jury instructions, it was found that whiz-deletion has a negative effect on the decoding of a text. The inaccessibility of legal writing gives law practitioners, who interpret the law for their clients, a great amount of power. It puts clients at the mercy of these specialists and renders them, as far as clients need are concerned, indispensable (see 4.6).

(xi) Noun chains

For legal writing to be precise, it sometimes utilises a great deal of descriptions. Thus the occurrence use of descriptive phrases such as noun chains is very common in this genre. Examples in this regard include *small claims court cases* and *inter-regional traffic regulation ordinances.* As a general rule, a more neutral adjective follows one which expresses a personal viewpoint, as in *failed* juvenile delinquency rehabilitation regulations and a *racist* tertiary education amendment bill. Grammar books, according to Van der Walt and Nienaber (1997: 10), suggest that adjective chains should be listed according to the rule *size - age -*

colour - origin - material - noun. Through this rule, one can generate a chain such as *The long outdated black South African woollen gowns.*

(xii) Unique determiners

Legal discourse has the propensity to use words like as *such* and *said* as determiners in an unusual way. Where a legal text avoids the use of pronouns and repeats a noun or nouns that have already been mention in order to avoid supposed ambiguity, it may use *such* and *said* as determiners before these nouns. The two sentences below illustrate such uses:

> (2) The Creditors have agreed to accept *such* proposals and to enter into the covenants on their part hereinafter contained. Now in pursuance of the *said* agreement and for the consideration aforesaid This Deed Witnesses and is hereby declared as follows: ... (see Appendix B, lines 25-28).

4.4 Generic structure

Specialist writers seem to be fairly consistent in the way they organize their overall message in a particular genre, and analysis of structural organization of the genre reveals preferred ways of communicating intention in specific areas of inquiry. The generic structure of written Legal English comprises the following sub-genres: pedagogic Legal English, academic Legal English, Juridical and Legislative Legal English (Bhatia, 1987: 229). Because they all deal with law, these sub-genres share common layout features. The following section discusses layout features before it discusses the other sub-genres.

4.4.1 Layout features

According to Crystal and Davy (1986: 194), most legal documents are not in fact composed from scratch, but are based on other existing documents called "form books". The punctuation of these documents is said to be haphazard and scant. Asher and Simpson (1994: 2088) state that "They are purely written records, so there would have been little need for punctuating them. When they came to be printed, compositors - doubtless influenced by the inconsistency of manuscript punctuation - developed the practice of printing texts without

any punctuation at all. Gradually, the tradition grew that punctuation had no part to play in legal writing". Perhaps because legal documents were not written to be read so much as to be studied or pondered over at length, they were not punctuated in the conventional way.

Many old, legal documents do not have paragraph divisions. Explaining the reason for this format, Crystal and Davy (1986: 197) mention concerns about "economy in the use parchment and an intention to defeat fraudulent deletions (by providing no tradition for spaces) and additions (by leaving no space into which they might be squeezed)". They also indicate that until in eighteenth century, punctuation was not used to mark the grammatical or logical structure of a text (Crystal & Davy, 1986: 200). The sparse and erratic punctuation that was used in the old documents served mainly as an aid to oral reading. The interpretation of meaning was something that could be got from words only. Wydick (1994: 78-79) points out that when printing became commonplace in the 17th century, printers deleted or supplied punctuation to make their product uniform. Many lawyers then viewed a punctuated text suspiciously because they thought that the printer might have interfered with it and distorted the writer's meaning.

Robinson (1983: 116) observes that the language of legal references contains a complex system of footnotes ("small print") and indexing. She mentions two positive features of a written legal text. One is that paragraph are usually numbered and headed. The other is that sometimes different sections of the text can be distinguished by different sizes and types of print and underlining (Robinson, 1983: 117).

4.4.1.1 Pedagogic Legal English

Students come across the textbook genre of pedagogic written English more than they do the other genres. While a law textbook shares the same expository orientation with the textbooks of other subjects, there are a few features that make a law textbook unique. As Swales (1981: 106-111) points out, "a commonly identified communicative act such as defining can have different discoursal functions in different academic subjects such as Science and Law." Writing in law is different from writing in other subjects in the way legal statements are made and supported by citing relevant case references. Further, within a particular legal textbook there can be a major variation in the rhetorical structuring, depending on whether what is

being discussed stems from precedents found in the case descriptions or from some aspects of legislation that legislature has enacted (see 3.5.3.5).

4.4.1.2 Academic Legal English

The most common genre of academic written legal language is the journal article. The footnotes and indices used in a law journal make this text different from the articles of other journals. On the use of footnotes, Bhatia (1987: 230) says that "They appear to be statistically significant, functionally different and rhetorically much more important than footnotes in any other area of research writing. Unfortunately, however, there is practically nothing reported on this in the available literature".

4.4.1.3 Legislative and Juridical Legal English

Bhatia (1993: 123) writes: "The law student ... if he is to get at the reality of law, the raw material behind the opinions of the textbook writers, must study the words of the judges and of the statutes." The next section, then, examines two types of this sub-genre, viz. law provisions and legal cases.

4.4.1.3 (i) Law provisions

The structural organization of law provisions is characterized by what Bhatia (1993: 32) terms 'moves', which are the discriminative elements in this sub-genre. He notes that " ... although the notion of cognitive move-structure can be widely used for a variety of genres, it may not always be applicable to all of them. The idea is to interpret the regularities of organization in order to understand the rationale for the genre." A law provision from Bhatia (1993: 32) illustrates how moves are used in a legal text:

> [12] Where the dwelling-house with respect to which the right to buy is exercised is a registered land, the Chief Land Registrar shall, if so requested by the Secretary of State, supply him (on payment of the appropriate fee) with an office copy of any document required by the Secretary of State for the purpose of executing a vesting order with respect to he dwelling-house and shall (notwithstanding section 112 of the

Land Registration Act 1925) allow any person authorised by the Secretary of State to inspect and make copies of and extracts from any register or document which is in the custody of the Chief Land Registrar and relates to the dwelling-house (The British Housing Act 1980, Section 24, subsection 5).

Figure 1 below illustrates the structural organization of the text above.

Interactive move-structure in legislative writing

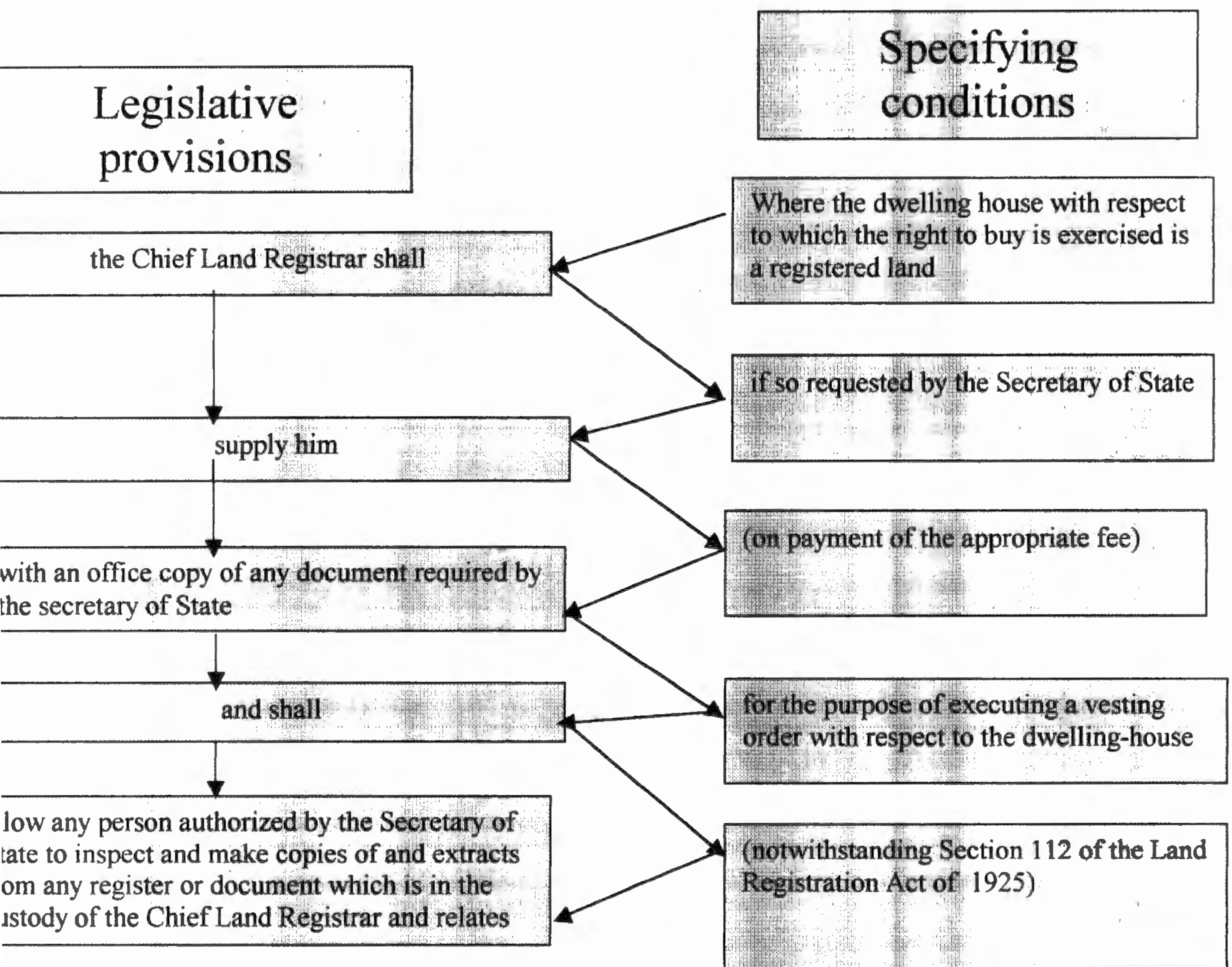

Figure 1: Interactive move-structure in legislative writing

The density of qualificational insertions serves a typically legal function in this genre in that it is meant to answer legal questions and doubts, and offer clarifications about various aspects of the main provision. The format is that of a two-part interactive structure consisting of the main provisionary clause (legislating provisions), and the qualifications (specifying conditions), rather than linear. Bhatia (1993: 34) notes that "The analysis of cognitive structuring is interactive here in the sense that the move qualifications typically interacts with several aspects of the move provisionary clause at various positions, answering a number of questions that can be legitimately asked in the context. The main function of these inserted qualifications or conditions is to make the legislative provision precise, clear, unambiguous and all-inclusive"(see 4.6).

4.4.1.3 (ii) Legal cases

Students are required to study cases because legal decisions are based on the doctrine of precedent, which mean that courts follow previous decisions within more or less well-defined limits. According to Bhatia, (1993: 135-136) a case has a typical four-move structure like the following:

(i) Identifying the case
(ii) Establishing facts of the case
(iii) Arguing the case
 (a) stating history of the case
 (b) presenting arguments
 (c) deriving ratio decidendi
(iv) Pronouncing judgment or verdict.

A headnote from Bhatia (1993: 120) is given below as an example.

Roles v. Nathan

> Two chimney-sweeps were killed by carbon monoxide emitting from the ventilation system of the boiler in which they were working. They had chosen to ignore a prior warning of this danger. The court of Appeal held that the defendants were not liable, for, in the words of Lord Denning M. R., "When a house holder calls in a specialist to

> deal with a defective installation of his premises, he can reasonably expect the specialist to appreciate and guard against the dangers arising from the defect."

The first two sentences, *Two chimney-sweeps were killed by carbon monoxide emitting from the ventilation system of the boiler on which they were working. They had chosen to ignore a prior warning of this danger,* provide the description of the case and mentions the main facts, the *material* of the case. The second aspect of the case is the verdict given by the court: *The court of Appeal held that the defendants were not liable ...* At the end the case mentions the principle of the law, the *ratio decidendi: When a householder calls in a specialist to deal with a defective installation on his premises, he can reasonably expect the specialist to appreciate and guard against the dangers arising from the defect.* The part of the case that is said to possess authority is known as the *ratio decidendi*, which in the words of Bhatia, 1993: 175) is "the material facts of the case plus the decision thereon". It is important to bear in mind that although cases look like narratives, they are not literary texts; one should, therefore, read them as pieces of a legal genre and appreciate how social justice is negotiated in a legal setting. Bhatia (1993: 176) stresses the importance of this approach when he points out that

> ... a major concern of law students when reading legal cases is not simply to understand them as stories and then to answer comprehension questions on them, but to appreciate which facts of the case are legally material and to distinguish them from those that are legally immaterial, whether an earlier decision or a rule of law is relevant, whether a particular case is distinguishable form another and to deduce the ratio decidendi of the case. The task of the ESP teacher, therefore, is to ensure such an appreciation. Failure to perceive these specialized tasks might lead to confusion on the part of the student and will make his job more difficult.

4. 5. Spoken Legal English

Bhatia (1987: 227) distinguishes three types of legal settings in which spoken Legal English is used: pedagogic, academic and professional. A law lecture and a mock trial are two of the major examples of pedagogic uses of spoken Legal English. There is probably a high degree of overlap between the use of English in lectures of various subject discipline and a law

lecture. However, it is also likely that certain specific methodological and conceptual features of law, such as how legal claims are made and supported, will make law lectures different from those in other subjects (see 7.2.2). Academic use of Legal English usually occurs in seminars or conferences where legal experts interact either formally through the presentation of a paper or informally after a presentation.

Lawyer-client conversation, which takes place outside of the courtroom, and counsel-witness examination, which takes place in the courtroom, are two examples of professional uses of Legal English (see 7.2.2). The former involves an asymmetrical power relationship between the client, a layman, and a legal professional, the lawyer. As in the lawyer-client consultation, in a counsel-witness relationship, there is unequal power relation between the participants. But, whereas in the lawyer-client consultation the participants seem to be co-operating most of the time, in the courtroom the council and witnesses co-operate far less: The counsel typically tries to destroy the credibility of the witness by means of his/her submissions, whereas the witness always tries to avoid self-blame by means of minimising strategies in his/her testimonies.

Once people are in court, they must follow its procedures and use its language; if they do not, they may be held "in contempt". So there are many restrictions in court language. People are not allowed to say what they want in the way they want. There are, for example, several everyday functions of language that witnesses are not allowed to use:

* They must not report what other people have said (hearsay)
* They must not evaluate other people or events (opinion)
* They must not give listeners extra context (i.e. they must simply respond to the question)
* They must not show emotions such as humour

Similarly, the legal experts are subject to linguistic constraints, such as how to introduce evidence or cross-examine witnesses.

Crystal (1987: 387) compares the proceedings of a trial to "a giant narrative with a beginning (the opening statements), middle (the presentation of evidence), and end (the closing

arguments and verdict)". However, unlike most stories, this one is told by many people, including two "official" storytellers (counsel for the defence and for the prosecution), and exists in at least two conflicting versions. Resolving the conflict depends mainly on the linguistic skills of all concerned.

The language that is used to question child witnesses has been criticised. This criticism stems from the fact that where child witnesses are involved, language use is seldom adapted to suit the child's cognitive maturity. For instance, three-year olds who have been sexually molested might be asked if they enjoyed the act or they may be asked to be precise about time, frequency and place (Mpshe, 1997, radio programme). It would seem that the courts' awareness of the unsuitability of the language that is used when a child witness is interrogated needs to be raised so that some linguistic adaptation can be effected.

4. 6 The Plain English Movement

The emphasis ELT has given to communication as one of the main aims of language learning has, since the late eighties, led to an upsurge of interest in Legal English (Van der Walt, 1992: 94). The language of law has been recognised as a potential tool of oppression and exploitation, especially where it is used as an L2 by the majority of the population (Van der Walt 1992: 94). Legal writing has been criticized for obscurantism. Wydick (1994: 1) gives the following statistics in this regard: In 1596 an English chancellor punished a person who had written a prolix legal document. In 1817 Thomas Jefferson accused his fellow lawyers of producing difficult texts that could be accessed by lawyers only. In the 1970s criticism of legal writing became more intense. Wydick (1994: 2) notes that the 1980s and the 1990s brought progress toward reform.

Although there is still a great deal of resistance, according to Bhatia (1993: 116), there are many changes towards the use of simple English in legal writing at present. The main organisation that has spearheaded the use of simple English is The Plain English Campaign, which began in Britain and the United States of America in the late 1970s (Whitefield, 1995: 8). Asher and Simpson (1994: 378) point out that "The main task of the campaign is to attack the use of unnecessarily complicated language (gobbledygook) by governments, businesses, and other authorities whose role puts them in linguistic contact with the general public". The

campaigners argue that such language, whether spoken or written, should be replaced by clearer forms of expression. There is also a strong perception that lawyers purposefully write obscure documents in order to get clients, who cannot understand their legalese (Van der Walt & Nienaber, 1997: 216). In South Africa this practice goes against the provision of the Pan South African Language Board (PANSALB) Amendment Act of 1999 section 6, i.e. "the prevention of the use of any language for the purposes of exploitation, domination or division."

The use of clear language may avoid wastage, anxiety, and accidents. Producing a second document because the first one was unintelligible can be costly in terms of time and money. A business may decrease sales because of it unintelligible documentation repels customers. When policy holders cannot understand the information in their policies, they may feel very anxious. Clients' instructions in a do-it-yourself product that are unclear can lead to disaster. In everyday life, the advantages of the use of plain language may go a lot further than easing the path of productivity. It boils down to questions of democracy and making government accessible and accountable. In a multilingual country like South Africa, where the majority of the people are second language speakers of English, it is very important to use simple English because many of these people may not understand the high-falutin Legal English and, as a result, may be denied the opportunity to exercise their rights expressed in it (see 2.2). Van der Walt and Nienaber (1997: 184) remark that "... if you can't understand what the government is doing because much of what it is up to is hidden behind a barrier of bureaucratese, how do you keep control of it?" Jeffery (1999: 10) stresses this point where she quotes Thomas Jefferson saying "The price of liberty is constant vigilance".

There have been objections to the ideals of the Plain English Campaign. The strongest have come from the legal profession. Lawyers point to the risk of ambiguity inherent in the use of everyday language for legal or official documents. They argue that the characteristics of legal language are the product of centuries of effort to devise an unambiguous, reliable and authoritative means of regulating society and resolving conflict (see 4.2; 4.3). In their view, the need for consistency in legal interpretation and for confidence in judgment (which, they argue, can save time, anxiety and money) far outweigh the gain that could come from an increase in popular understanding (Asher & Simpson, 1994: 378). The use of technical and

complex language is, as far as they are concerned, the most precise means of expressing technical and complex ideas.

Bhatia (1993: 117) observes that "Many of the attempts to reform legislative writing in the Western world have largely been ineffective because of their failure to recognize the value of an ethnomethodological position that the legislative provision reflects a sphere of practical reasoning which needs to be understood in its own terms." For example, if a complex preposition is substituted with a simple preposition, loss of certainty in legal effect or ambiguity may occur. A text from Bhatia (1993: 218) illustrates this point well:

> (9) Child benefit shall not be payable in respect of a child over the age of 16 years for any week beginning after 31st August 1978 in which financial support for that child is being provided by way of payment under arrangement made by virtue of section 2 of th Employment and Training Act 1973 (a) (The Child Benefit General Amendment Regulation 1978, UK, No.1275).

In this case it is likely that one may suggest the use of either 'to'or 'for' in place of the complex preposition 'in respect of'. However, if one were to use 'to', the section would become inaccurate because the child benefit is payable to parents or even to someone else in respect of a child and not necessarily to the child. On the other hand, the use of 'for' will make the section vague, because it could be interpreted that the money collected must be used for the child, which is not true. The intention is to compensate parents or whoever acts as a guardian for the expenses incurred on the child. Therefore, 'in respect of' seems to convey the intention of the law more precisely than any of the other prepositions in this legislation. But Bhatia (1993: 117), while acknowledging the necessity for use of legalese, cautions against going overboard. He observes that "One gets the a feeling, quite justifiably in many cases, that the concern on the part of the specialist community for clarity, precision, and unambiguity on the one hand, and all-inclusiveness on the other, has been taken rather too seriously and, perhaps, too far." Crystal (1987: 386) also argues that legal language can be unnecessarily difficult.

The proponents of simple English acknowledge that professionals need their jargon in order to communicate with one another succinctly and unambiguously. But where possible they

should try to use ordinary language. As Crystal and Davy (1986: 215) observe, the Golden Rule of interpretation states that "the grammatical and ordinary sense of the words is to be adhered to unless that would lead to some absurdity or some repugnance or inconsistency with the rest of the instrument, in which case the grammatical and ordinary sense of the words may be modified so as to avoid that absurdity and inconsistency, but no further". Bhatia (1993: 209) reports that although there is a natural caution about leaving the safe charted domain of traditional legal language and entering into a world that may be hiding an array of undiscovered linguistic pitfalls, these days many lawyers accept the desirability of simplification as long as it retains the generic integrity of legal language. In addition, when law specialists communicate with people who do not belong in their profession, they should use ordinary language. Ordinary citizens can know about their rights and obligations through accessible texts. In the sciences, there is a fairly well-established tradition to produce two different versions of scientific reports, one for fellow scientists and the other for popular consumption by science enthusiasts. A similar tradition needs to be firmly established in the legislative setting too. It is only when the language of law has been simplified that the use of this rule will mostly likely be fair. The high level of legalese that one often comes across tends to undermine its fairness. Hendricks (1999: 1) reports that in South Africa the use of simple English is "... likely to contribute towards solving the long existing legitimacy crisis of the law."

4.6.1 Simplifying Legal English

Wydick (1994) has suggested a number of devices for simplifying legalese. Some of these devices are lexical, some are syntactic and some generic. Three from each of these categories are discussed below.

4.6.1.1 Lexical devices

4.6.1.1 (i) Use simple expression

Both the passages below are based on a letter that a lawyer once sent to a client. But, whereas passage one is replete with expressions that are meant to impress, passage two is simple and more intelligible.

Passage One

The statement for professional services that you will find enclosed herewith is, in all likelihood, somewhat in excess of your expectations. In the circumstances, I believe it is incumbent upon me to avail myself of the opportunity to provide you with an explanation of the cause therefore. It is my considered judgment that three facts are responsible for this development.

Passage Two

The bill I am sending you with this letter is probably higher than you expected, and I would like to explain the three reasons why.

In passage one, the author uses *statement for professional services* instead of *bills; in all likelihood* instead of *probably; in excess of your expectations* instead of *higher than you expected; expectation of the causes* instead of *explain why*. Since archaic and foreign words such as *aforementioned, said, hereinafter, res gestae, ex parte* are difficult of decode, they should be substituted by simple everyday words (cf. 4.2).

4.6.1.1 (ii) Omit surplus words

One can make a text easier to read by being concise. For example, *by virtue of* and *inasmuch as* can be substituted *by* or *under* and *since* respectively. Where there are doublets, one can use one element of the doublet. For instance, *permit* can be used instead of *suffer and permit; will* instead of *last will and testament*. Similarly, one can avoid compound constructions by replacing long phrases such as *with reference to* with *about* or *concerning; at that point in time* with *then* (cf. 4.2).

4.6.1.1. (iii) Avoid vague words

According to Wydick (1994: 54), the lure of abstract words is strong for lawyers. Lawyers want to be cautious and to cover every possibility, while leaving room to wiggle out if necessary (cf. 4.2). The vagueness of abstract words therefore seems attractive:

Example:

In our present circumstances, the budgetary aspect is a factor which must be taken into consideration to a greater degree.

Simplified version:

Now we must think more about money.

There could, however, be justified vagueness in legal writing as when in drafting statutes or contracts, the drafter cannot foresee every specific set of facts that may arise. In this case it merely gives general guidance and defer specific guidance until specific situations arise (Wydick, 1994: 56).

4.6.1.2 Syntactic devices

4.6.1.2 (i) Use short sentences

As far as sentence length is concerned, Wydick (1994: 36) advises the following:

* In most sentences, put only one main thought.
* Keep the average sentence length below twenty-five words.

Wydick's rules should, however, not be followed slavishly. The first rule is qualified by *most*, not *every*. To keep the reader's interest, the writer should vary the sentences they construct: simple sentences that express only one main idea can be interspersed by some compound sentences that express two or more related thoughts. Likewise, the second rule is about *average* length, not *every* length. Writers should vary sentence length: short sentences, medium should co-occur with an occasional long sentence in which related ideas are linked (cf. 4.3).

Sentences that contain a set of modifying phrases each nested inside the next should be avoided. The nest of modifiers should be taken apart and expressed in separate sentences.

Example:

A claim for exemption, which in the case of a dwelling that is used for housing not more than a single family shall not exceed R60 000 or the fair market value,

whichever is less may be filed with the Administrator within 90 days after receipt of notice.

When divided into two separate sentences, the passage reads thus:

> A claim for exemption may be filed with the Administrator within 90 days after receipt of notice. The claim for a single family dwelling cannot exceed R60 000, or the fair market value, whichever is less.

Sometimes the shortest, clearest way of presenting a complicated piece of material is to tabulate the different items in a long sentence:

> Example:
>
> You can qualify for benefits under Section 43 if you are sixty-four or older and unable to work, and that section also provides benefits in the event that you are blind in one eye, or both eyes, or are permanently disabled in the course of you employment.
>
> Simplified version:
>
> You can qualify for benefits under Section 43 if you meet any one of the following conditions:
>
> * you are 64 or older and are unable to work; or
> * you are blind in one or both eyes; or
> * you are permanently disabled in the course of your employment.

4.6.1.2 (ii) <u>Avoid wide gaps between the subject, the verb, and the object</u>

Wydick (1994: 41) says that in order to make one's writing easy to understand, most sentences should follow the normal English word order: first the subject, next the verb, and then the object (if there is one). Wide gaps between the subject, the verb and the object should be avoided (see 4.3 i).

Examples:

* This agreement, unless revocation has occurred at an earlier date, shall expire on November 1, 2000.
* The defendant, in addition to having to pay punitive damages, may be liable for plaintiff's costs and attorney fees.

Simplified versions:

* Unless sooner revoked, this agreement shall expire on November 1, 2000.

* The defendant may have to pay plaintiff's costs and attorney's fees in addition to punitive damages.

4.6. 1.2 (iii) Avoid cosmic detachment

Every legal problem involves people. Without people there would be no legal problem. It is therefore important to mention who is doing what to whom. Wydick (1994: 69) points out that "your reader is the most important person in the universe - or at least your reader thinks so. Don't be afraid to bring the readers into your sentences and don't be afraid to call them *you*". A notice like: *In an emergency, a loud alarm will be heard. Occupants should go to the nearest stairs where they will be told what to do* is too detached. Rephrased, it reads thus: *In an emergency, you will hear a loud alarm. Go to the nearest stairs, and do what the Floor Captain tells you* (cf. 4.3).

4.6.1.3 Generic devices

4.6.1.3 (i) Punctuate carefully

Wydick (1994: 15) says that lawyers should make meaning clearer by punctuating their texts as much as possible. Quoting Mellinkof, Wydick (1994: 80) cautions that "if you don't punctuate, a reader will do it for you in places you never wanted it." Precision in law is important; thus, no meaning should be lost through incorrect punctuation. The use of a hyphen and a comma below illustrate how meaning could be affected by punctuation. A lack of a hyphen creates a double meaning in the following sentence: *The new tax deduction is designed to aid small business owners.* Besides referring to businessmen who own small businesses, this sentence could also refer to business owners who are small in stature. The rule is that if two words act together as a single modifier, they should be joined by a hyphen. So *small business* above should be *small-business*. Proper use of the comma is illustrated by the sentences below:

A dark, cold night (*dark* and *cold* modify *night* equally)

A bright red tie (*bright* modifies *red*; a red bright tie would be something else)

The rule is that one should use commas to separate coordinate adjectives. But, if one Adjective modifies another, one should not separate them with a comma (see 7.7.2.3).

4.6.1.3 (ii) Apply easification

In the words of Bhatia (1993: 146), easification "... attempts to make the text more accessible to readers by using a variety of ... easification devices, the purpose of which is to guide them through the text without making any drastic change to the content of linguistic form of the text, thus maintaining its generic integrity."

4.6.1.3 (ii) (a) Clarify the cognitive structure of a text

Complex syntax can be easified by clarifying the cognitive structure underlying the provisions as the following example illustrates:

> Where the dwelling-house with respect to which the right to buy is exercised is a registered land, *the Chief Land Registrar shall,* if so requested by the Secretary of State, *supply him* (on payment of the appropriate fee) *with an office copy of any document required by the Secretary of State* for the purpose of executing a vesting order with respect to the dwelling-house *and shall* (notwithstanding section 112 of the Land Registration Act 1925) *allow any person authorized by the Secretary of State to inspect and make copies of and extracts form an register or document which is in the custody of the Chief Land Registrar and relates to the dwelling-house* (Section 24 (5) of the Housing Act, 1980, UK. From Bhatia, 1993: 210).

The parts in italics indicate the main provisionary clauses and the other sections represent the qualifications that make the provision operative.

4.6.1.3 (ii) (b) Clarify the legislative intentions of a text

The use of statements of purpose to explain and clarify the legislative intent at various levels, particularly in the case of complex contingencies, will indicate to the reader what an Act or any section of it is about. Bhatia (1993: 213) gives an illustration of both clarity and certainty

of effect achieved in the Children Bill by clarifying the governing principle which the courts must apply when making decisions affecting children:

(3) when a court determines any question with respect to

(a) the upbringing of a child ; or

(b) the administration of a child's property or the application of any income arising from it.

The child's welfare shall be the court's paramount consideration.

4.6.1.3 (ii) (c) Use popular register for public consumption

The complex, detailed version of legislative provisions are meant for practitioners of law, whose job is to discuss and negotiate justice; the plain version is meant for those who do not need to be thoroughly well-versed in the intricacies of legal content but who for some reason or other do need to be aware of specific laws on general terms. Parliamentarians, for example, may make use of popular versions so that they can vote understandingly on the bills. One form of a simple version is a summary. It is simple, brief and gives the gist of the whole original. Another form is that which involves the use of non-linear information with or without prose. McQuid-Mason's Street Law series (1987-1991) uses cartoons and simplified texts. The blurb of the six books of Street Law series spells out that the texts are meant for non-specialists: "The Street Law programme is designed to be taught by school teachers who have no background in law" (McQuid-Mason, 1987).

4.7 Conclusion

The chapter has analysed various aspects of legal writing such as its lexico-grammatical features. It was pointed out, among other things, that the uniqueness of these features can be appreciated more when they are viewed in relation to the generic structure of legal discourse. Spoken English was then discussed briefly. The argument for simplified Legal English was presented and it was pointed out that while there may be valid reasons for preservation of generic integrity of legal discourse, there are good reasons for making it easy to understand. It was then shown how simplification can be effected.

Students of law need to be made aware of the peculiarities of Legal English. During their academic life, they come across Legal English in their textbooks, journals, lectures, and when they attend court proceedings. Raising their awareness is necessary because they are likely to function better as students and as law practitioners if they are well informed in terms of the tool of their trade, Legal English. It has been observed that, "the very nature of legal language and the demands made on law students cause difficulties for first and second language speakers of English alike" (Van der Walt & Nienaber, 1996: 82).

Chapter 5

MODELS FOR ESP SYLLABUS DESIGN

5.1 Introduction

Depending on their theoretical base, ideology, and setting, language practitioners give English for Special Purposes (ESP) a range of definitions. Theses factors have led to the emergence of a least two prototypes of syllabus design, viz. the product, end-driven synthetic model, which emphasises the importance of content, and the process, means-driven analytic model whose emphasis is on method. Before these main models are discussed and ESP is defined, a broad overview of the curriculum and curriculum design and the outcomes-based approach are given in order to put what is being talked about in context.

5.2 An overview of the curriculum and curriculum design

The term "curriculum" is a derivative of a Latin word *currere* and it means "to run." It suggests a race or an ongoing process. The curriculum has been viewed as the relatively standardised ground that students should cover before they reach the finish line, that is, a certificate, a diploma or a degree (Zais, 1976: 6). Teachers have given various emphases in their conceptualisations of the curriculum. Some have viewed it as a body of courses (Van der Walt, 1982: 12), some have viewed it as course content (Eaton, 1975: 57), some as planned learning experiences (Wheeler, 1979: 11), and some as a structured series of intended learning outcomes (Johnson, 1967: 130). Zais (1976: 13) states that various definitions should be welcomed. A quest for the correct definition is often inadvisable because the meaning of a curriculum results from the ever-changing dynamics of a teaching/learning situation. Zais's caution does not, however, mean that a definition of the curriculum should not be sought, only that it should relate to a particular situation and serve only as a temporary guide to teaching.

Designing a curriculum is a complex process and demands a sensitivity to the academic environment, knowledge and appreciation of the relevant subject discipline, an awareness of the abilities and preferences of the students, an understanding of the available resources as

well as an understanding of university's mission statement, and the national educational policy of the country (cf. 2.2). One of the models that shows this sensitivity is Du Plessis' (1995: 32), which divides curriculum design into three strata: the long-term macro level, the medium-term meso-level, and the short-term micro-level.

(i) The macro-level

Universities and their faculties are planned at the macro-level. The faculty curriculum documents are also produced at this level. Different curricula are designed from a consideration of, among other things, the university's mission statement, the needs of the community in which the university is found, the needs of a country and indeed those of the world. Language audit as a kind of needs analysis could perhaps be placed here too. According to West (1994: 5), it involves "major political questions that were originally deemed to be outside the scope of needs analysis but which now give it a much broader scope, making it a matter of language planning (see 2.2). It concerns determining what languages ought to be learnt, for what reasons, by how many people, to what level, in what type of institution, by what method, at what cost and so on." Curriculum design at the macro level, in short, involves determining a long-term strategy for learning and producing a policy document on it.

(ii) The meso-level

This is the level at which the departmental curriculum is found. For example, in the Private Law department one may find Private Law I, II and III, which make up the curriculum for that department.

(iii) The micro-level

This is the level where the curriculum for a subject such as practical English is found. It could take one semester one module or one year. Van der Walt (1982: 20) says that "The subject curriculum as identified here, has traditionally been regarded as the syllabus in South Africa, and usually specified only the content of the course."

A traditional curriculum on which there has been considerable agreement (Van der Walt, 1982: 23-24) stipulates that the elements of a curriculum should include at least the following:

(a) a situation analysis
(b) the aims and objectives
(c) the selection and organisation of content
(d) the selection and organisation of learning activities
(e) evaluation

The items above are based on Nicholls and Nicholls' (1978: 21) cyclical model of a curriculum. The model shows that curriculum development is not a once-for-all plan; it is a continuous process with one component in the model affecting another. The feedback obtained from Evaluation necessitates a new start for more development as figure 2 below shows.

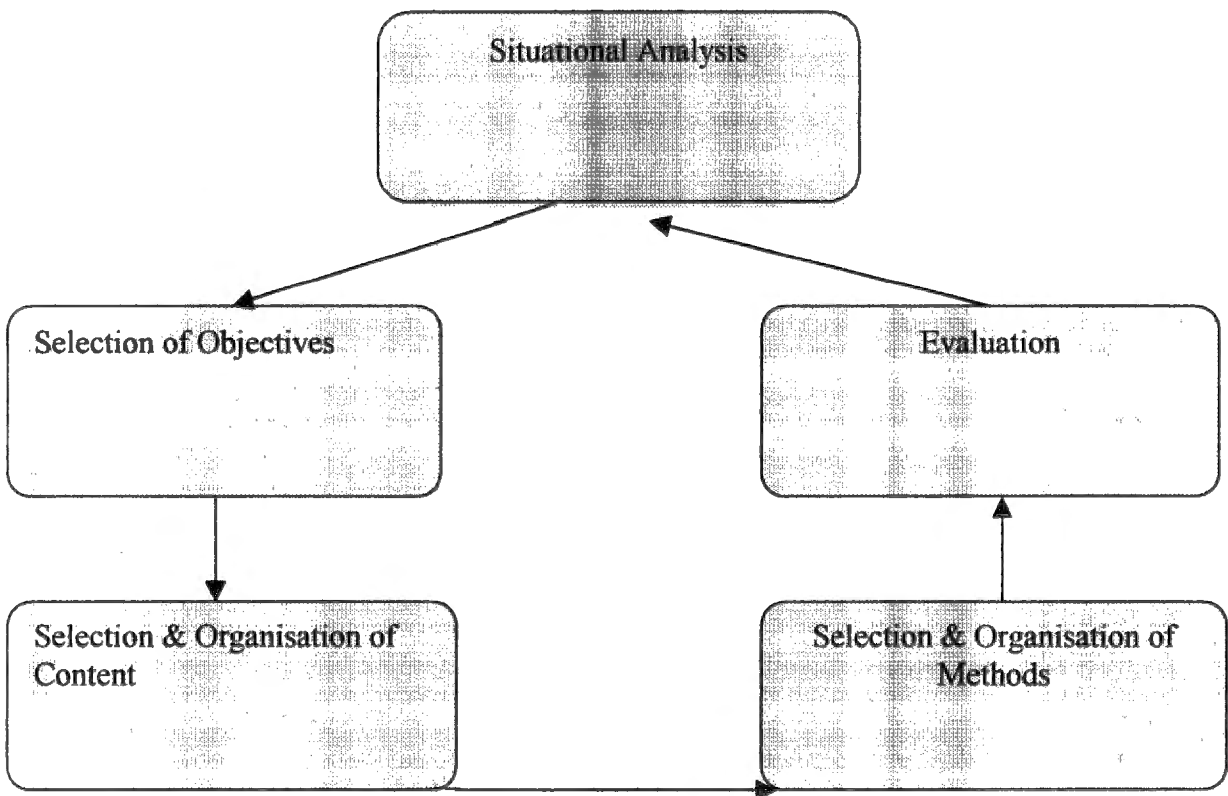

Figure 2: Nicholls and Nicholls' curriculum model

Van der Walt (1982: 24) points out that this model is applicable to all stages of course design and requires spelling out the details of the intended course. He also notes that "The traditional university approach has been to specify only the components and examination requirements very briefly. If recent developments in curriculum design are taken into account, however, the model will have to be applied to every subject and every level" (Van der Walt, 1982: 24). It is therefore imperative that English for Academic Purposes be seen within the bigger picture of curriculum design. A syllabus is not merely "a list of the content of a course" (Eaton, 1975: 57) because, as Van der Walt (1982: 27) contends,

> ... the syllabus is a statement for the plan for a part of curriculum of a course. A syllabus cannot specify only the "content" part of a curriculum. Content cannot be divorced from the other elements of a curriculum: the elements that precede it (i.e. the situation analysis, the aims and objectives) will have a direct bearing on the nature of the content. The content specified will also influence the learning activities and the methodology. A syllabus will therefore have to include all the elements mentioned.

In short, the curriculum serves as the basis for syllabus design. The designing of a syllabus is informed by the theory of curriculum design. Van der Walt (1982: 6) indicates that the curriculum and the syllabus have a great deal in common.

When a course has been designed, it can then be implemented and after implementation it can be evaluated. Implementation involves the teaching-learning methodology used to teach the contents of a syllabus. Evaluation may be seen from two viewpoints: from product evaluation, which is about the assessment of students' achievement and process evaluation, which deals with the course itself (see 9.10). Van der Walt (1982: 28) cautions that "Assessment should be in line with the stated aims and objectives, and not vice versa. It can so easily happen that the subject taught is not English, but Examinations." This study focuses on the planning stage. It will discuss implementation only briefly.

5.3 The outcomes-based approach

In Education, *approach* refers to the assumptions and theories about the nature of learning and teaching that serve as the source of principles and practices in that environment (Richards

& Rodgers, 1986: 16). Following Nicholls and Nicholls' model of curriculum design above, one of the factors that one needs to consider when designing a syllabus is the national policy of the state in which teaching and learning is taking place (see 2.2). The national education policy in South Africa at present is that of outcomes-based education (OBE) teaching. Nxesi (2000: 23) remarks that OBE has been introduced because the Christian National Education of the Apartheid era would be inimical to the ideology of the new regime.

Outcomes-based education, according to Kilfoil (1999: 7), " ... has been around in the US since the 1960s evolving from mastery-learning and competency-based education. It is known there as performance-based education. It gained most ground in the 1980s in various forms." She adds that the influence of OBE has spread to all English-speaking countries. In Britain it has permeated different educational sectors and is becoming more generic and inclusive (Kilfoil, 1999: 7). Regarding education as a whole, it sees the ways of information production as interdisciplinary, non-hierarchical and unsystematic.

As far as language learning is concerned, outcomes-based education focuses on socio-cultural structures determining language use. Gee (1990: 60) notes that social institutions like the university and the elite groups in society often deny the multiplicity and indeterminacy of interpretation and privilege their own version of meaning as if it were natural, inevitable and incontestable. Debunking this myth, this model shows that discourse and literacies are multiple. In the words of Newfield and Janks (1998: 73), it maintains that " ... the development of modern technologies has increasingly resulted in multimodal texts which include the verbal in combination with the visual as well as movement and sound ... Students need to acquire multiple literacies."

OBE sees the role of teaching/learning as that of making students critically aware of discourse and its literacy. It regards the immediate goal of language learning as learner empowerment and the long-term one as social change. It considers language forms as a kind of dress code and sees language as essentially political.

OBE is akin to the language as Discourse (with a capital "D") paradigm by which it is maintained that all learning activities, and thus all literacy activities, are bound to particular Discourses. Explaining why this is so, Gee (1990: 2) is emphatic when he says:

> ... all literacy activities are bound to particular Discourses. There is no such thing as "reading" or "writing", only reading or writing *something* (a text of a certain type) in a certain way with certain values, while at least appearing to think and feel in certain ways. We read and write only within a Discourse, never outside all of them. One doesn't read a comic book the same way as a newspaper, nor a physics book the same way as legal brief. And one can always read any one text in many ways, depending on the Discourse from which one reads it. Literacy is always multiple: there are many *literacies*, each of which involves control of Discourses involving print.

So the term, *Discourses*, is always more than just language. Discourses are ways of being in the world, or forms of life which integrate words, acts, values, beliefs, attitudes, social identities, as well as gestures, glances, body positions, clothes, etc. These cultural modes also set up what count as central, typical specimens, and what count as marginal, non-typical ones (cf. 2.5).

For students to acquire a Discourse, they need to be apprenticed to a particular way of behaviour (see 7.6.7). They should be involved in learning a set of complex role relationships, general cognitive techniques, ways of approaching problems, different genres of talk and interaction, as well as an intricate set of values concerned with communication, interaction, and society as a whole. Gee (1990: 90) points out that teachers of general English are often deluded into assuming that they can teach students "to think critically and to follow an argument". This fallacy ignores the fact that Discourses think in different ways and accept different things as arguments. There is no general purpose argument form, fit for any Discourse. Arguments in logic, in linguistics, in literary criticism, in law, in formal encounters in everyday life, in intimate encounters in everyday life, and so on through many more settings, have different forms even when they have similar content (see Legal English in Chapter 4). Gee (1990: 47) warns that " ... we should be clear on the fact that whenever we speak, context is not really something that can be seen and heard; it is actually something people make assumptions (which are mental acts) about. Context is a mental construct. Words don't mean, people do".

One learns cultural models by being acculturated, by being open to and having experiences with a culture, by practising language and interaction in natural and meaningful contexts.

Cultural models carry within them values and perspectives on people and on reality. Cultural models from different cultures can conflict in their content, in how they are used, and in the values and perspectives they carry. The English teacher is the student's mentor and guide to a culture, usually the culture of the school and of 'standard' or 'mainstream' society. In other words, the student is apprenticed to the teacher.

Apprenticeship is necessary because the cultural models of the student's own home culture can conflict seriously with those of mainstream culture (see 2.5). Actually, some of the values of mainstream culture are complicit with the oppression of some students' home cultures. This is true, for instance, in the case of many black and Hispanic students, as well as many third world cultures (Gee, 1990: 48). Thus Gee (1990: 14) says that:

> To the extent that ideologies are tacit, removed or deferred and self-advantaging, they are the root of human evil and leave us complicit with, and thus responsible for, the evil that is in the world. We cannot, perhaps, remove the evil, but we can remove our moral complicity. We do this, I believe, by doing a species of linguistics, namely discourse analysis [read language development] (explicating our tacit and removed/deferred theories, especially our tacit and removed/deferred ideologies). That is why linguistics is a moral matter and why, in the end, to me, linguistics matters.

South Africa is aiming at a structured OBE. It has adopted and adapted the idea of a National Qualification Framework from New Zealand and Australia (Kilfoil, 1999: 3). However, Davey and Goodwin-Davey (1999: 18-19) contend that "a lot of damage was done during the OBE advocacy programmes conducted over the last three years by introducing outcomes-based education as a 'radical paradigm shift'. It might have been a radical paradigm shift for some, but for many dedicated, informed educators, it was nothing of the sort ... the ground rules and principle practices of OBE were laid long before outcomes-based education acquired its present currency, though obviously not organised on a national basis." What this suggests is that outcomes-based education practice - in all its principles, and pedagogy - tries to do nothing other than formalize good teaching and learning strategies. As Spady (1994: 25) also remarks, "OBE embodies the common-sense thinking and practices of

effective instructional design and delivery found in highly effective systems throughout our society."

The principal components of OBE, which are discussed below, are contextual frame, outcomes, content, and pedagogy.

(i) <u>Contextual frame</u>

The contextual frame comprises the following four parts:

The institutional context: some campuses have the latest technology like computers, the Internet, video cameras, television monitors, etc.; others do not (cf. 2.2.3).

Policy context: Newfield and Janks (1998: 68) indicate that in the current South Africa educational policy is informed by political principles such as equity and redress and is opposed to the previous policies of apartheid segregation and the philosophy of Christian National Education. A single National Qualifications Framework (the NQF), the South African Qualification Authority (SAQA) and the National Standards Bodies (NSBs) have been formed to ensure parity of outcomes across the newly unified education system (cf. 2.2).

The social context: Teaching and learning are value-loaded practices. Social, cultural and aesthetic practices are tied to questions of race, class, age, gender, ethnicity and religion (cf. 2.2). The Language, Literacy, and Communication learning area in Curriculum 2005 requires that students respond to aesthetic, affective, social and cultural values in texts. These values should permeate the lesson content so that these outcomes can be realized.

Economic context: One of the most important reasons for the introduction of outcomes-based education is to develop the country's human resources by ensuring that learners acquire the kinds of competences, skills and values that will enable them to contribute to South Africa's economic growth. Lifelong learning has been introduced to recognise the outcomes achieved by learners in both formal and non-formal education and to enable the constant reskilling of the country's workforce, broadly conceived. Funding for education will be allocated in terms of national priority (cf. 2.2).

(ii) Content

Although outcomes-based education de-emphasises content, this does not mean that lessons can be content-free. Obviously, every lesson must be about something (cf. 5.2). *What* it is about, constitutes its content. The content comprises the following:

* knowledge, i.e. what students should know: subject matter, ideas, concepts, topics, themes, texts and other materials.
* skills, i.e. what students should acquire beside verbal skills: visual (viewing and designing), kinetic (performances), and auditory (audios) literacies.
* values and attitudes, i.e. what responses to aesthetic, affective, social and cultural issues should be developed. In *Curriculum 2005* (1997: 2) the national Department of Education states that:

> Education is the key to change. For South African this is no different. For most South Africans, their values and attitudes were formed in the old, divided South Africa. Education is the key to changing many of the commonly held values and beliefs. Critical thinking, rational thought and deeper understanding - central to principles of the new education system - will soon begin to break down class, race, and gender stereotypes.

(iii) Pedagogy

A lesson has to happen in some way or other - sometimes in more than one way. *How* the lesson happens, is its pedagogy (cf. 9.10). It involves methods (drills, question and answer, audio's and/or audio-visuals, dramatisation, singing, speaking, lectures, etc.) theoretical approaches (practical criticism, post-colonial literary theory, communicative language teaching, critical language awareness, etc.) and classroom organisation (horse-shoe, whole class, group work, pairs, individual work). What is characteristic of communicative language teaching (CLT) is that *meaning*, and the *construction of meaning* in interactional (or transactional), task-based and authentic (real life) context is paramount (Davey & Goodwin-Davey, 1999: 21). As Brown (1993: 18) explains, empowerment means that both educators and learners need to free themselves from the dehumanising, disempowering influence of

traditional, closed, authoritarian, top-down, pre-package curricula that tell you what to do, what to be and what to think. Instead, says Brown (1993, ibid), we need to empower ourselves - intellectually, linguistically, politically, economically, socially, morally - to become critical thinkers, equipped with problem-solving strategies, poised to challenge those forces in ourselves and society that would keep us powerless and passive (cf. 2.3.2). Brown (1993: 20) adds that it is in the language classroom that this process needs to begin.

It is better for teachers to narrow down the specific outcomes themselves in relation to the other key elements in the lesson, than their having to work towards a predetermined list of prescribed performance indicators.

Pedagogy, Outcomes or Content are equally valid starting points. If any of these elements can initiate the design process, then outcomes-based education does not require teachers to start with an outcome and to 'design down' from it. Outcomes-based teaching does not have to be outcomes driven.

(iv) Outcomes

For a lesson to be valid, it should have a rationale, a *why* (see 5.2). Whereas in the past curriculum this was specified in terms of what the *teacher* wanted to achieve with a lesson, outcomes-based education focuses on outcomes in terms of what the learner will achieve. As the White Paper on Further Education and Training (1995: 5) states: "Successful modern economies and societies require ... citizens with a strong foundation of general education, the desire and ability to continue to learn, to adapt to and develop new knowledge, skills and technologies, to move flexibly between occupations, to take responsibility for personal performance, to set and achieve high standards, and to work cooperatively" (cf. 2.2). Echoing this viewpoint, Spady (1994: 29) notes: "Today's and tomorrow's workers need to be people with high levels of communication, collaboration, interpersonal and leadership skills. Why? Because, according to several authors and major studies, the hallmark of the Information Age workplace is adaptable, effective working teams that can collectively discover and solve significant problem and work successfully with others to get their potential solutions implemented." OBE prescribes two sets of outcomes, namely, critical cross-field outcomes (essential outcomes) and specific outcomes.

Curriculum 2005 gives eight critical outcomes, which apply to all learning areas and of which learners are required to demonstrate their knowledge. They are the following:

(a) Communicate effectively using visual, mathematical and/or language skills in the modes of oral and/or written presentation.

(b) Identify and solve problems by using creative and critical thinking.

(c) Organise and manage themselves and their activities responsibly and effectively.

(d) Work effectively with others in a team, group, organisation and community.

(e) Collect, analyse, organise and critically evaluate information.

(f) Use science and technology effectively and critically, showing responsibility towards the environment and the health of others.

(g) Understand that the world is a set of related systems. This means that problem-solving contexts do not exist isolation.

(h) Show awareness of the importance of effective learning strategies, responsible citizenship, cultural sensitivity, education and career opportunities and entrepreneurial abilities.

Besides the critical outcomes, Curriculum 2005 gives seven specific outcomes for the Languages, Literacy and Communication Learning area, which are the following:

(a) Make and negotiate meaning.

(b) Show critical awareness of language.

(c) Respond to values in text: aesthetic, affective, cultural and social.

(d) Access, process and use information.

(e) Know and apply language structures and conventions.

(f) Use language as a medium for learning all subjects (study skills).

(g) Use language appropriately (communicate appropriately).

As presently conceived, OBE allows teachers freedom to select the content and the pedagogy as they see fit as long as learners achieve these outcomes (Newfield & Janks, 1998: 74).

(v) Assessment

Outcomes are closely linked to assessment practices and assessment criteria, and feedback (see 9.10). Measuring outcomes is based on performance indicators, which serve as evidence that students have met the required criteria. Each activity should have an appropriate pedagogy and its own focused outcome. Students have the right to know quite specifically what these indicators are (cf. 7.5.2.5). Criterion referenced tests are measured according students' performance in relation to clearly stated criteria. They provide information, which is directly interpretable and can be related to performance in real life. However, it is not desirable or even possible to assess outcomes in every lesson. Informal assessment is an ongoing component of teaching/learning.

Formative feedback is concerned with the developmental process. It is informal feedback that is provided by students and staff at various stages during of a course. It enables the ensuing parts of the course to be modified. Summative feedback gives students overall assessment. One of the means of gauging students' opinion is using a questionnaire, which is completed anonymously. Tutors themselves may complete a questionnaire about their own teaching.

While advocating for the use of OBE, Kilfoil (1999: 14) warns against its unconditional acceptance when she says:

> It is a problematic paradigm for a variety of reasons. Universities should not co-operate with technicist, reductionist policies. As responsible academics we must not be driven by external economic and political pressures alone, but should also ask serious questions as we plan our new qualification. For instance what makes a BA valuable? Are art graduates flexible? Are they (re) trainable? Whose outcomes should higher education seek to attain? The market's? What about the university's function to critique?

5.4 Syllabus design as the expression of a paradigm

Every syllabus expresses a paradigm. A paradigm is not merely a commonly accepted theory. It is, as Breen (1987: 83) puts it, "a disciplinary matrix wherein the ideas, the problems and the actual mode of undertaking work will reveal shared and consistent assumptions, beliefs, values and ways of interpreting experiences." In other words, it is the conceptual framework that undergirds a discipline. In its representation of language knowledge and capacities for pedagogic purposes any syllabus can be viewed as one particular expression of that paradigm which we as a community engaged in language education currently share during a period in the history of our profession. A revolution in science, for Breen (1987: 83-84), is a period of time when one paradigm is replaced by another. The intervening phase is, for the community of specialists, a confusing period of "paradigm shift" wherein the new paradigm may either be assimilated within the prevailing one - reflecting thus the human inclination to resist too much change or to protect vested interests - or the new paradigm will gain momentum and develop so that it replaces its predecessor. The evolution of syllabus design from the synthetic prototype to the analytic prototype indicates a paradigm shift in ELT.

5.5 A definition of an ESP syllabus

According to Robinson (1980: 15), English for Specific Purposes or ESP emerged in the early to mid-1960s when English changed from being a subject or "education-for-life" into being a course that offered a specific service. The term "ESP" does not refer to restricted language; while focusing on the whole purpose of the learner for learning a language, it refers to a range of language resources that could be utilised to serve its purpose (McDonough, 1984: 5). Johns and Dudley-Evans (1991: 198) assert that "ESP requires the careful research and design of pedagogical materials and activities for an identifiable group of adult learners within a specific learning context." Categories of ESP include various academic Englishes (e.g. "general" English for Academic Purposes (EAP), English for Science and Technology (EST), English for Business and Economics (EBE), English for Social Sciences (ESS), etc. In their definition of ESP, Johns and Dudley-Evans (1991: 198) distinguish between four absolutes and two variable characteristics as the list below shows:

Absolute characteristics:

ESP consists of English language teaching which

* is designed to meet specific needs of the learner
* is related in content (i.e. in its themes and topics) to particular disciplines, occupations and activities
* centres on the language appropriate to those activities in syntax, lexis, discourse, semantics, etc.
* analyses discourse in contrast with general English.

Variable characteristics:

ESP may be, but is not necessarily

* restricted as to the language skills to be learned (e. g. reading only)
* taught according to any pre-ordained method.

With regard to claims, ESP offers the following four promises:

* being focussed on the learner's need, it wastes no time
* it is relevant to the learner
* it is successful in imparting knowledge
* it is more cost-effective than general English.

ESP is called by different names in English-speaking countries. In the US it is called content-based instruction, and in Australia 'English for the Workplace' (EWP) (Johns & Dudley-Evans, 1991: 303).

5.6 Models of ESP

In his definition of a model, Du Plessis (1995: 30) says that "Teaching design that is in accordance with a systematic approach is generally set out in models. In a model there is a presentation of the organized series of activities which follow each other logically with a view to the achievement of an aim." He further explains that these steps serve as a checklist against which progress and goal-achievement can be measured. A model may have its limitations; however, it helps one to identify the components and their relations to one another in a curriculum. The section below presents different ESP models under two main rubrics, the synthetic syllabus and the analytic syllabus.

5.6.1 The synthetic or traditional syllabus

The synthetic or traditional syllabus has its roots in the description and analysis of the classical languages. It adopts the notion of propositional representation of knowledge from cognitive science and sees language as a system based on logical structures and a network of rules. Its main concern is phonology, grammar, lexis or morphology, and discourse as text (Breen, 1987: 85). The focus on structure, however, does not mean that a Formal Syllabus will ignore semantics and pragmatics. In the words of Breen (1987: 85), "it takes the systematic features of the textual nature of any language as the driving force or carrier of the other two." This type of syllabus characterises the capabilities the learner needs in order to be linguistically correct in their use of the four language skills. It is behaviouristic; language learning is viewed as the acquisition of a set of habits. The learner is regarded as a passive recipient of expert knowledge and direction (cf. 2.2.2). Not surprisingly, the role of the teacher is to provide expert knowledge and direction. The approach is normally inductive. The Formal syllabus assumes that, because language is rooted in a finite range of linguistic realisations, teaching rules have the potential to provide the learner with generative knowledge. This syllabus assumes the human capacity to be metalinguistic: to reflect upon, talk about, and try to work out just how a language works. Words are seen in their paradigmatic (vertical) and their syntagmatic (horizontal) relationships. The most commonly applied criterion is linguistic complexity, and most Formal syllabuses represent a developmental route from what is "simple" in terms of structure, or rule, to what is "complex".

A synthetic syllabus divides the target language into discrete items and presents them in a lock-step manner. Wilkins (1976: 2) states that in this syllabus "Different parts of language are taught separately and step by step so that acquisition is a process of gradual accumulation of parts until the whole structure of language has been built up ... At any one time the learner is being exposed to a deliberately limited sample of language." A synthetic syllabus assumes that the language learner is capable of learning a language in parts and integrate the pieces when they need to use them communicatively. The word *synthetic* refers to the learner's task which is "to re-synthesize the language that has been broken down into a large number of small pieces with the aim of making his learning task easier" (Wilkins, 1976: 2). Long and Crookes (1998: 28) point out that almost all lexical, structural, notional and functional,

topical and situational syllabuses are synthetic. White (1988) remarks that this syllabus is interventionist, external to the learner and determined by authority. Because of its focus on content or *what* is to be learned, it is said to be product-oriented or ends-driven; it regards the mastery of the subject matter as important.

Hutchinson and Waters (1987: 9-14) mention four ESP models that are based on this approach, namely, register analysis or logico-statistics, rhetorical or discourse analysis, target situation analysis, and skills strategies. They are all under the rubric of English for Academic Purposes and based on notional/functional grammar and needs analysis.

5.6.1.1 The register analysis or logico-statistics model

Hutchinson and Waters (1987: 9) say the register analysis or logico-statistic model operates at the sentence level. It assumes that disciplines express their subject matter in different registers. For example, the register that is used in Law is different from that which is used in a Science subject. When designing materials based on this model then, teachers use the linguistic features of a text as their syllabus (e.g. conditional sentences for legal discourse in 9.9.11). The purpose of the course is to teach the kind of English that will be most relevant to the learner. Hutchinson and Waters (1987: 17) indicate that many General English textbooks neglect the teaching of language forms that might be essential in some subjects. In Science for instance, key concepts such as compound nouns and modals are sometimes excluded.

5.6.1.2 The rhetorical or discourse analysis model

As ESP became closely involved in the emerging field of discourse or rhetorical analysis, the emphasis shifted from studying language from the viewpoint of the sentence to looking at it from the viewpoint of a bigger unit, namely, discourse (cf. 4.4.1.2). The following assertion by Allen and Widdowson (1974: 15) captures the thinking on ESP at this stage: "We take the view that the difficulties which the students encounter arise not so much from a defective knowledge of the system of English, but from an unfamiliarity with English use, and that consequently their needs cannot be met by a course which simply provides further practice in the composition of sentences, but only by one which develops a knowledge of how sentences are used in the performance of different communicative acts." Because of this need, the

thrust was shifted to specifying the information structures or patterns in texts and identifying the linguistic items used to mark these patterns. These structures would then constitute an ESP syllabus. There was again an assumption that the discourse patterns of text organisation differed markedly between specialist areas: the discourse pattern of a Law text, for example, differed from those of a Science text. The typical teaching material based on the discourse approach taught students to recognise textual patterns and discourse markers mainly through text-diagramming exercises.

5.6.1.3 The learner needs model

At the end of the Second World War (1945) there was enormous scientific, technical and economic expansion the world over, which resulted in a need for an international language. One of the principal factors that led to the use of English as an international language was that the United States wielded great power in the post-war world, and as its national language was English, they used their clout to make English the international language (Hutchinson & Waters, 1987: 6). Before this period, a knowledge of a foreign language had been regarded as symbol of a well-rounded education and learning a foreign language was for its own sake. But after 1945 ELT had now to meet the user's needs in their technical and commercial engagements around the globe. Hutchinson and Waters (1987: 7) remark that "Whereas English had previously decided its own destiny, it now became subject to the wishes, needs and demands of people other than language teachers. English had become accountable to the scrutiny of the wide world and the traditional leisurely and purpose-free stroll through the landscape of the English language seemed no longer appropriate in the harsher realities of the market place."

According to Hutchinson and Waters (1987: 54), "if we had to state in practical terms the irreducible minimum of an ESP approach to course design, it would be needs analysis, since it is the awareness of a target situation - a definable need to communicate in English - that distinguishes the ESP learner from the learner of General English." They caution that needs analysis is not a once-for-all activity; it should be a continuing process in which the conclusions drawn are constantly problematised or re-assessed. They make a distinction between target needs (i.e. what the learner needs to do in the target situation) and learning needs (i.e. what the learner needs to do in order to learn). Under target needs, they put

necessities, lacks and wants (Hutchinson & Waters, 1987: 55-58). West (1994: 9) adds constraints to this list.

5.6.1.3 (i) The target situation

Target situation analysis or needs analysis tries to systematise the learner's reasons for learning a foreign language (cf. 1.2). Its premise is that since the purpose of an ESP course is to enable learners to function successfully in a target situation, this environment should be analysed first and then a rigorous analysis of the linguistic feature of that situation should follow. The identified features would constitute the ESP course. Hutchinson and Waters (1986: 12) remark that "The target situation analysis stage marked a certain 'coming of age' for ESP. What had previously been done very much in a piecemeal way, was now systematised and learner need was apparently placed at he centre of the course design process." As far as this model is concerned, the most thorough explanation of target situation analysis, according to Hutchinson and Waters (1986: 12), was the one given by John Munby in *Communicative Syllabus Design* (1978). It gives a detailed analysis of learners' needs based on communication purposes, communicative setting, the means of communication, language skills, functions and structures.

5.6.1.3 (i) (a) Necessities

Necessities are, as Hutchinson and Waters (1987: 55) put it, "the type of needs determined by demand of the target situation, that is, what the learner has to know in order to function effectively in the target situation." These are said to be objective needs, which can more or less be assumed to be commonplace from an analysis of typical everyday situations, and any such needs analysis approach identifying these necessities is frequently known as target-situation analysis. It is apparent, however, that many language courses are not terminus courses and that interim objectives short of the necessities of the target situation will have to be set. In such cases, it would seem better to regard the course objectives as short or medium term goals or aims rather than target necessities, and the needs analysis procedure would therefore be one of goal setting or aim definition. The learner will have to know the linguistic features - discoursal, functional, structural and lexical - and interpretive frameworks or the way academic knowledge may be framed and its underlying network of

assumptions which are commonly used in the target situation (cf. 5.3). Johns and Dudley-Evans (1991: 301) indicate that it has been discovered that many advanced ESL students may understand every word in a lecture or in a reading but still fail to grasp the principal arguments or the purposes and audiences for the discourse. They also point out that "studies in rhetoric confirm the need for the ESP teacher to take account of the varying epistemological assumptions of different academic disciplines and professional discourse communities" (Johns & Dudley-Evans, 1991: 304-305).

5.6.1.3 (i) (b) Lacks

To identify necessities alone is not enough. Teachers need to find out what the learner knows already, so that they can then decide which of the necessities the learner lacks (see the diagnostic test in Appendix C). Target proficiency, in other words, needs to be matched against learners' existing proficiency. The gap between the two can be referred to as the learner's lacks (Hutchinson & Waters, 1987: 55-56). It is, then, lacks which determine the syllabus. For example, rhetorical structures will not be included in the syllabus simply because they exist, but only if they are either seen to cause comprehension difficulty or if knowing how to handle a particular rhetorical structure can help in the reading process.

5.6.1.3 (i) (c) Wants

Wants are "what the learners want or feel they need" (Hutchinson & Waters, 1987: 57). These needs are personal and are therefore sometimes referred to as subjective needs "which cannot be said to be general ... they are quite unforeseeable and therefore indefinable" (West, 1994: 4). But they are an important factor all the same because, as Robinson (1980: 45) points, out "If we accept that a student will learn what he wants to learn, less well what he only needs to learn, less still what he neither wants nor needs to learn, it is clearly important to leave room in a learning programme for the learner's own wishes regarding both goals and processes of learning." It is often pointed out that these wants may differ from, or even conflict with necessities as perceived by a sponsor or employer, and lacks as identified by the teacher. This, however, does not mean that wants are any less real and ways will have to be found to accommodate them. While this may be difficult in cases where the wants are idiosyncratic or even opposed to the aims of the intended course, there may be wants which

are perceived by the majority of the potential participants which can be incorporated into the syllabus or methodology (see 7.4.2). Robinson (1991: 105) notes that "a common example of this is the demand for speaking, which normally emerges as the least needed skill for EAP students, ... but if not a need, speaking is often a want, since in many students' opinions oral proficiency is the best indicator of mastery of a language" (Robinson, 1991: 105).

5.6.1.3 (i) (d) Constraints

These are external factors which may include the resources (staff, accommodation, time) available, the prevailing attitudes or culture and the materials, aids and methods available (West, 1994: 4). These were all areas deliberately ignored in early approaches to needs analysis (e.g. Munby, 1978) but they are now seen as central to the process of course design and have come to be known as means analysis, for if the resources are fixed then the objectives themselves must be negotiable (see 10.3).

5.6.1.3 (ii) Learning needs

Hutchinson and Waters (1987: 61) stress that learners are people, not "the word crunching machines which too many approaches to ESP seem to imply." ESP teachers need to be imaginative enough to create the kind of lessons that will stimulate and sustain learners' interest. Learners may have to read, for example, difficult and boring texts in their mainstream subject but because of some reason or other, they may tolerate this. In an ESP class, however, their threshold of tolerance might be lower. In the words of Hutchinson and Waters (1987: 62), "For all manner of possible reasons learners may be well motivated in the subject lesson or in their work, but totally turned off by encountering the same materials in an ESP classroom. The target situation, in other words, is not a reliable indicator of what is needed or useful in the ESP learning situation" (see 10.3).

5.6.1.4 The skills and strategies model

Register, discourse, and target situation analysis all focus on the surface form of the language learning process. The skills and strategies model, according to Hutchinson and Waters (1986: 13), "attempts to look below the surface and to consider not the language itself but the

thinking processes that underlie language use". It was argued that reading skills are not language-specific but universal and that there is a core of language (for example, certain structure of argument and forms of presentation) which can be identified as 'academic' and which is not subject-specific. (Hutchinson & Waters 1986:13). So the assumed common reasoning processes that underlie all language use enable us to extract meaning from discourse. The proponents of this model hold that the focus that has been put on surface forms should now be put on the acquisition of those interpretive strategies, which will enable the learner to cope with the surface form in tasks like guessing the meaning of words from context, exploiting cognates and using visual layout to determine the type of text, etc.. The model has been largely influenced by cognitive learning theories such as the schema theory and interactive reading theories and regards learners mainly as thinking beings who can be asked to observe and verbalise the interpretive processes they use in their language learning processes. Skills are identified by analysing the "think aloud" protocols of "good" language learners. The model is tailored mainly for the development of reading and listening skills. The typical exercises are metacognitive, requiring learners to analyse how meaning is produced in and retrieved from a spoken or written text (see 5.2.4). According to Hutchinson and Waters (1986: 13) this model is imported from the U K and its the key proponents are Francoise Grellet, Christine Nuttal, Charles Alderson, and Sandy Urquhart.

The models described above are, as far as Hutchinson and Waters (1987: 14) are concerned, "fundamentally flawed, in that they are all based on descriptions of language *use*. Whether this description is of surface forms, as in the case of register analysis, or of underlying processes, as in the skills and strategies approach, the concern in each case is with describing what people *do* with language." They then advocate the use of the learning-centred model, which de-emphasizes the importance of the needs-and-materials that has characterised the ESP movement (Johns & Dudley-Evans, 1991: 305). The learning-centred approach focuses mainly on methodology and the basis on which to select the subject matter. This model emphasises the learning process in which the learner is engaged in order to complete a particular task. The focus of the classroom interaction is thus on the learning process rather than on the learner or the teacher. Reid (1996: 3) places learner-centredness and teacher-centredness on either end of a continuum, referring to a learner-centred approach as anarchical, overly permissive and chaotic and teacher-centred approach as "autocratic, overly structured and fearsomely quiet". In other words, the learner-centred and teacher-centred

models carry negative overtones; the former suggests, for instance, excessive concern about the learner's needs and the latter portrays a authoritarian, active teacher, but creates a passive picture of the learner. The learning-centred approach is at the midpoint between the two extremes. While it concedes to the learner's needs, it at the same time, accords due respect to the teacher's authority in the classroom (see 5.6.2.4). Four models based on this viewpoint are discussed below under the rubric of the analytic syllabus.

5.6.2 The analytic syllabus

Although the analytic syllabus also offers the learners language samples which may have been modified in one way or another, it does not control form in the same way that the traditional syllabus such as the synthetic syllabus does. The proponents of this approach hold that "prior analysis of the total language system into a set of discrete pieces of language that is a necessary precondition for the adoption of a synthetic approach is largely superfluous. Analytic approaches are organized in terms of the purposes for which people are learning language and the kinds of language performance that are necessary to meet those purposes" (Wilkins, 1976: 13).

Analytic syllabuses present the target language whole chunks at a time, without linguistic control or interference. Like the synthetic syllabus, they are not necessarily about what the syllabus designer does; they concern the mental operations demanded of the learner. Long and Crookes (1992: 29) say that they rely on the following principles:

(i) the learner's assumed ability to perceive regularities and infer rules from the input

(ii) the learners' possession of an innate knowledge of linguistic universals and of the fact that languages can vary and the activation of this knowledge by exposure to natural L2. In the words of Van der Walt (1992: 97), "the rationale behind [the procedural syllabus], the task-based syllabus, and process syllabus is that certain conceptual and communication skills can be transferred from the mother tongue to the second or foreign language."

This type of syllabuses may be compared to what White (1988) calls Type B syllabus. Based on constructivism, it focuses on method, that is, *how* the L2 is to be learned. Unlike the

product/end-driven synthetic syllabus, it is process/means-driven; it precludes preselection and arrangement of content. Accomplishment in this syllabus is assessed according to the learners' criteria of success. ESP archetypes under the analytic framework are the personal-expressivist model, the procedural, the process, and the task-based models.

5.6.2.1 The personal-expressiveness model

According to Elbow (1973: 5), this model originates in the USA. It focuses on the development of the individual's writing skills. It respects the writer's autonomy and his/her unique ways of perceiving the world. Concern for the student as a unique individual with a "tale" to tell, as one who must feel empowered to produce or deconstruct texts in individual and creative ways, is an important principle of the expressivist model. Its proponents argue that without this active personal involvement and a sense of control over texts, lifelong literacy growth is not worthwhile or even possible. It is ultimately concerned with writing and uses reading and speaking as a means to this end. It attempts to eliminate anxiety in learning because it holds that worrying about how the audience experiences your words stultifies writing (Elbow, 1973: 125). The syllabus is usually organised around a number of general interest themes (e.g. the environment, gender etc.) about which it assumes students to have something to say/write. It relies on a process approach to teaching writing - incorporating jotting down one's thoughts and experiences in journals that resemble personal diaries, and peer review - and teaches free writing techniques such as poetry (cf. 3.5.4.3 v). Keeping journals is in line with the government's ideal of lifelong learning (*Curriculum 2005*, 1997: 1). The journals are the students' own personal records, and though the instructor may respond to their content, they are not corrected for grammar errors. Elbow (1973: 6) contends that "The habit of compulsive, premature editing doesn't just make writing hard. It also makes writing dead. Your voice is damped out by all the interruptions, changes, and hesitations between the consciousness and the page." He adds that schooling tends to emphasise success and thereby undermine learning. Regression and "falling apart" are necessary parts of any complex learning. When the price of failure is very high, learners tend to close themselves off from improvement in this sort of complex skill and short-circuit its acquisition process.

While acknowledging that expressivist model can help establish fluent and frequent writing habits, and that it is in line with the notion of developing life-long skills and independent thinking, one may criticize it on at least two grounds. Firstly, it is limiting. Students are not as free as the expressivist model suggests. They are constantly influenced by their teacher, and by examinations and the context in which they are writing. At some point students must contend with the issues of grammar and form and with public contexts for writing (cf. 9.8.10). Expressivism does not prepare them for these literacy experiences.

Secondly, the notion of personal voice in the expressivist model is an Americocentric concept, which can be problematic with students who are not mainstream North Americans and unfamiliar with personal voice (cf. 2.5). Some cultures value a voice that identifies one with a group and does not make an individual stand out. In Tanzania, for instance, Muchiri *et al.* (1995: 181) note that "students tend to take on various collective personae, associated with traditional speech events when they write." They add that students may write in the voices of great authorities (such as famous authors), the government, or a village or family leader.

5.6.2.2 The procedural model

Prabhu (1987: 70) maintains that the acquisition of form is not an instant or one step at a time act but a long subconscious process that is activated by "the operation of some internal system of abstract rules and principles" when the learner's attention is focused on meaning, i.e. task-completion, not language. This view is based on the learner's subconscious organic development of grammatical competence, which occurs mainly independently of the teacher so long as motivation and data are supplied. Prabhu (1987: 24) defines *task* as follows: "An activity which required learners to arrive at an outcome from given information through some process of thought, and which allowed teachers to control and regulate that process." It is based on meaning-negotiation, by which is meant that the learner makes sense in the language through problem solving tasks and the use of comprehensible input. Van der Walt (1989: 53) observes that "... task-based learning operates with the concept that, while the conscious mind is working out some of the meaning content, some subconscious part of the mind perceives, abstracts or acquires (or recreates, as a cognitive structure) some of the linguistic structuring embodied in those entities, as a step in the development of an internal system of rules."

Prabhu (1987: 72) rejects any attempt by the language teacher to present the grammar of the target language because he argues that this is not the teacher's job, but the linguist's. He holds that teaching form often leads to the acquisition of knowledge which the learner cannot deploy. Thus he states that "the internal system developed by successful learners is far more complex than any grammar yet constructed by a linguist, and it is therefore unreasonable to suppose that any language learner can acquire a deployable internal system by consciously understanding and assimilating the rules in a linguist's grammar" (Prabhu, 1987: 72).

There are two types of tasks involved in the procedural syllabus, both of which are based on the needs of the activity or discourse and manageability for learners as well as on comprehension and production. The pre-task is used to assess the suitability of a task. It is teacher-directed and involves the whole class and oral interaction. Although the challenge the pre-task presents is the same as that of the task, the two tasks differ in terms of content. The pre-task is "roughly analogous to that of a lesson in mathematics, where a problem is worked out publicly and a similar problem is then set for the learner to work out on their own" (Prabhu, 1987: 53). The aim of the pre-task is to gauge the suitability of the task. If it proves to be too difficult, it may be broken down into smaller and more comprehensible units.

The task proper is done individually so that pupils can get used to learning independently in future. They, however, may consult with their peers and teacher when necessary. Tasks are accompanied by sustained reading or listening and writing activities. Tasks are expected to be intellectually challenging in order to sustain the learners' interest but not too difficult, lest they demotivate the learner. In order to forestall over-familiarity and demotivation, tasks-type should be varied. Tasks should especially involve reasoning-gaps, which require students to solve problem through some inductive means.

As far as the level of difficulty is concerned, Prabhu (1987: 58) says that "a rough measure of reasonable challenge for us is that at least half the class should be successful with at least half the task". Long and Crookes (1987: 36) indicate that "activities in a procedural syllabus are preset pedagogic tasks, not related to a set of target tasks determined by an analysis of a particular group of learners' future needs." The procedural syllabus differs from communicative language teaching in that its focus is on task completion rather than on the

language used in the process (cf. all the units of chapter 9 and unit 9.5 on the conversational class). Input or teacher's speech is not preselected or graded but, as Prabhu (1987: 87 puts it, "roughly tuned as a natural by-product of the spontaneous adjustment made to communicate with less proficient speakers inside or outside classrooms." A gloss may be provided in the learner's mother tongue for the purpose of getting the meaning across adequately for the class to make a relevant response and for "private" discourse with the teacher. Decoding of the teacher's input is not aimed at full comprehension. Because Prabhu (1987: 26) holds that comprehension can only be viewed as being adequate or inadequate for given purposes, and is typically paid attention to when it has been inadequate, decoding of the teacher's input is not aimed at full comprehension.

As regards errors, ungrammatical learner utterances are accepted for their content, but they may be reformulated by the teacher in the same way that a caretaker reacts to the truth value of a child's speech and gives corrective feedback in the process. Prabhu (1987: 61) calls this incidental as opposed to systematic correction. Peer-group interaction is dismissed as "junky input" because it is riddled with errors. He favours superior input because it results in the development of the learner's interlanguage. Prabhu (1987: 82) also states that "some learners find it more humiliating to lose face in front of their peers than in front of the teacher: they wish to see themselves as being equal to the former". Although learners in a task-based classroom can get their meaning across by means of ungrammatical expressions and their teachers are L2 speakers of English, task-based teaching is aimed at enabling them to achieve, in due course, grammatical conformity. Conformity, however, does not mean native speaker standards because, as Prabhu (1987: 99-100) puts it, "standards of adequacy for a world language are those which arise from its operation as such, not those which arise from its operation in exclusively native-speaking contexts" (cf. 2.2).

5.6.2.3 The process model

Breen (1984: 56) remarks that "Conventional syllabus design has oriented toward language as primary subject matter ... An alternate provides a change of focus from content for learning towards the process of learning in the classroom situation." Long and Crookes (1992: 38) say that "Breen ... advocates replacement of the traditional conception of the syllabus as a list of items making up a *repertoire* of communication by one which promotes a learner's

capacity for communication." A process syllabus rejects the transmission of preselected and predigested knowledge in favour of a social and problem-solving syllabus with explicit provision for the expression of individual learning styles and preferences (cf. 5.6.1.3. i. c). It provides students with a framework which enables teacher and learners to jointly focus on the subject matter, select what is needed, subdivide it and sequence it in an on-going and adaptive way. This results in the creation of a *particular* syllabus. Where the teacher is compelled to work from a prescribed syllabus, such a syllabus is subjected to reinterpretation so that it may be suitable to a particular classroom situation. Thus, a preplanned syllabus is redundant in the process model. Indeed, Candlin (1984: 35) holds that the content of a syllabus can only be known after a course has ended, by looking at what took place rather than what was planned.

The process syllabus has two main aspects to it: a plan, relating to the major decisions which teacher and learners need to make during classroom language learning; and a bank of classroom activities which are themselves made up of sets of tasks. Furthermore, the model is hierarchical and provides an assortment of options at the following five levels:

Level one

The class and teacher negotiate general aims, procedure and content, thus providing an overall direction to their activities in this level. Questions such as who does what with whom, on what content, with what resources, when, how, and why are asked. The process of discussion and participation through which agreements are reached are regarded as important, because they involve genuine communication and personal commitment.

Level two

The teacher and the students agree on procedures to be followed in reaching their agreed upon aims. They may also decide on a particular content syllabus for a classroom group. Both the procedures and content change over time.

Level three

At level three, alternative activities are chosen in so far as they are appropriate to the aims and procedures agreed on at level 1.

Level four

This level comprises a range of tasks, which arise from the activities of the preceding level. The teacher and students negotiate selection of these tasks. The tasks are not sequenced and are either communicative in nature or metacommunicative.

Level five

This level concerns evaluation and Breen (1987: 167) remarks that "Perhaps the key element of the Process syllabus is its emphasis upon evaluation." Throughout the processes of discussion, selection and agreement, students and teachers evaluate the tasks, activities, procedures and content in the light of their original aims and plans made at level 1. Such evaluation is continuous and formative, informing decision-making at each stage and, if necessary, resulting in alterations to earlier decisions or changes to the choices about to be made (see 5.3 v).

The process model is based on at least three assumptions. Firstly, it assumes that the teacher and the different learners will all have particular and varying views as to what might constitute the most appropriate content for learning (cf. 7.4.2). Secondly, it takes it for granted that learners' views will change as learning progresses and as they uncover aspects of the new language and its use during their work. Thirdly, it presupposes that particular problems and difficulties which learners may discover can not be planned in advance.

As concerns the efficacy of the process model, White (1995:101) observes that "Clearly, the stimulating proposals which Breen and Candlin have put forward are a manifestation of progressivism, and they draw on the curriculum philosophy articulated by Stenhouse as well as the ideas set out by such radical educators as Freire ... whose concepts of praxis and dialogue are an integral part of Breen and Candlin's approach. However, like all such utopian proposals, there will be problems of implementing them in the world of everyday affairs ...."

5.6.2.4 The task-based language teaching model

The task-based language teaching (TBLT) model seeks to bridge the gap between instruction and naturalistic learning. It would seem that after it became clear that the traditional way of

teaching formal grammar was not as effective as educationists wanted it to be, the use of the naturalist approach became attractive. Krashen (1981: 55), a naturalist, maintains that explicit learning and acquisition are totally different, and under no circumstances could learning become acquisition. In other words, formal instruction is unhelpful. According to Krashen and his supporters, the only thing that counted was the amount of comprehensible input, which would automatically lead to acquisition. But proponents of TBLT have called the efficacy of learning only through the naturalist way into question and suggested a mix of both conscious and unconscious learning. A key issue of debate between the naturalists and the formalist has been the question whether learning converts into acquisition. Naturalists have argued that it never does. TBLT holds that learning and acquisition overlap (McLaughlin, 1978: 309-332). Both Long (1983: 374) and Ellis (1995: 614-615) argue that formal instruction facilitates acquisition. Schmidt (1990: 129-158) rejects the possibility of incidental learning for adults, in the sense of picking up target language forms from input when it does not contain information critical to the task at hand. He maintains that nothing in the target language input becomes intake for language learning other than what learners consciously notice. Sharwood-Smith (1981: 159-169) claims that formal instruction may aid acquisition via practice. Although TBLT shares a great deal of theoretical orientation with the procedural and the process syllabuses, it considers these types too radical because of the little regard they give to the usefulness of formal instruction. TBLT takes a conservative stance and tries to reconcile both formal instruction, in the communicative sense, and naturalistic learning.

The TBLT model bases arguments for an analytic, chiefly Type B syllabus, on what is known about the processes involved in second language acquisition (SLA), on the findings of L2 classroom research and on the principles of course design, especially ESP in EFL contexts (Long & Crookes, 1992: 41). SLA research has indicated the following about formal, instructed learning:

(i) It has no effect on developmental sequence.

(ii) It has a positive effect on the use of some learning strategies as has been shown by the comparison of errors made by tutored and untutored learners.

(iii) It improves the rate of learning.

(iv) It probably improves the ultimate level of SL attainment.

In their advocacy of TBLT, Long and Crookes (1992: 41) emphasise that they do not imply a return to the use of a traditional structural syllabus; rather they suggest the use of "pedagogic tasks and other methodological options which draw students' attention to aspects of the target language code." They maintain that "tasks provide a vehicle for the presentation of appropriate target language samples to learners - input which they will inevitably reshape via application of general cognitive processing capacities and for the delivery of comprehension and production opportunities of negotiable difficulty. New form-function relationships are perceived by the learner as a result" (Long & Crookes, 1992:43).

A task-based syllabus demands a needs analysis to be done of the target tasks learners are being prepared to undertake both academically and professionally (Appendices C-G). A task-based syllabus normally comprises an inventory of, first, *communication* tasks or target tasks which "... derive from an analysis of the actual tasks which a person may undertake when communicating through the target language and, indeed, communicating through any language" (Breen, 1987: 162). After the target tasks have been identified, they are then classified into task-types, that is, given superordinates. Secondly, *learning* tasks or pedagogic tasks are listed "on the basis of *meta*communicative criteria rather than criteria derived from the eventual competence required during conversation" (Breen, 1987: 162). Pedagogic tasks are then sequenced to form the task-based syllabus. It is pedagogic tasks that teachers and students then work on in the classroom. Long and Crookes (1992: 44) hold that it is at the grading and sequencing of pedagogic tasks that the negotiation of learning process advocated by Breen (1987) and Candlin (1984) can be incorporated into TBLT and here as well that the recent findings on SL classroom research could be made use of.

One of the tasks that has become popular in TBLT is the keeping of a diary (see 9.8.20). It has two main merits, one of which is that it is non-threatening. Learners are not required to put their learning into immediate practice. Neither is there any pressure on learners to prove their mastery by any kind of performance tests. All that is required of learners is the recording of their awareness of linguistic features - language awareness (LA) in everyday use that they encounter. This includes billboards, notices, graffiti, texts on any items that have been bought, the media, conversations, etc. (see 2.5). The other merit is that TBLT promotes self-discipline, self-monitoring and self-correcting. The kind of responsibility and autonomy provided in making grammar discoveries motivates learners to be grammatically inquisitive

to read and to learn outside of the classroom. Since we do not know yet how the individual learns a language effectively, keeping a diary can offer learners a chance to use their own preferred strategies and techniques of acquiring the target language.

TBLT can operate within some of Koshi's (1996) principles of inductive teaching, which are given below:

(i) Teaching should provide opportunities for both acquisition and learning. The provision of comprehensible input is insufficient for learners to acquire all the grammatical forms for effective communication. Input may or may not facilitate second language development since only a small portion of this input serves as intake.

(ii) In the case of adult learners, especially those interested in academic work, we cannot assume that grammar will simply emerge on its own, given sufficient input and practice. For them, formal instruction in grammar is needed so that their output may characterize the structural features acceptable to the academic world and the professional/corporate world outside the academia (see 3.5.5).

(iii) For adequate input, adult learners need, in addition to comprehensible input, language awareness (LA). Recent empirical studies (Koshi, 1996: 404) show that LA-based strategies are more effective than strictly grammar-based ones.

(iv) When learned as a decontextualized, isolated sentence-level system, grammar is not very useful. Learners should be provided with the context of the discourse within which the grammatical system works (see 9.10).

(v) Grammar tasks that focus on consciousness-raising rather than practice facilitate second language acquisition by providing both implicit and explicit knowledge about the morpho-syntactic features of the language. In the words of Fotos and Ellis (1991: 623): "Grammar tasks which emphasize consciousness-raising rather than practice appear to be an effective type of classroom activity, and their use is supported by what is currently known about the way a second language is acquired."

(vi) Inductive learning facilitates retention, especially in adult learners. Koshi (1996: 405) points out that "cognitive research has shown that discovering rather than being told underlying patterns favourably affects retention."

(vii) Students enjoy and prefer the experience of inductive learning because they find it challenging and not threatening.

(viii) Grammar tasks that require learners to use discovery techniques are a very effective way to actively involve them in the learning process because they can be highly motivating and extremely beneficial for the students' understanding of English grammar.

(ix) The process of incidental intake of grammar – "picking up" grammatical forms, a byproduct of exposure to comprehensible input - is accelerated when tasks-demands force attention of relevant features of the input because, as Koshi (1996: 405) puts it, "intake is that part of the input that the learner notices".

(x) While students have opportunities to work alone, some of the tasks promote co-operative learning (see 9.10).

(xi) With respect to assessment, some of the students' work may be evaluated on the basis of a criterion-referenced test, the focus of which would be whether or not a student can perform a particular task; some may be evaluated on the basis of criteria as determined by a specialist in the discipline, the focus of which would be whether or not a student has grasped the essence of what has been taught (see 9.10).

(xii) Paying attention to language forms facilitates " x + 1" (the next rule) in Krashen's (1981: 45) input theory. It will enable learners to notice the gap between their interlanguage output and the observed input, which, in turn, will help them reformulate and restructure their interlanguage, so that it conforms to the conventions of the target language (see 3.5.5). It has been proven (Selinker, 1972: 15) that failure to focus on forms often leads to the fossilization of the interlanguage.

5.7 Conclusion

This chapter has given a broad view of what a curriculum entails, indicating how broad issues at the macro-level such as national language policy and meso-levels such as a departmental mission statement may have an impact on decision making at the micro-level. It was also pointed out that curriculum development is an ongoing process: Nicholls and Nicholls' five curriculum elements, referred to above, need to be reviewed continually and conclusions should be problematised time and again.

Regarding outcomes-based teaching, it was stated that this approach is not a new experimental idea. It tries to do nothing other than to formalize good teaching and learning

strategies. Here it can be used as a basis for the proposed EAS course. Besides, since it expresses the educational policy of the country, it is imperative to take it into consideration when designing a syllabus presently.

It was indicated that ELT has evolved from being a general course into a service that is tailored to meet specific learner needs. At first the synthetic approach to learning was used. Because it has proved to be less effective than has been anticipated, more and more language teachers are now adopting the analytic model. Of the analytic syllabuses that are being used, the task-based language teaching (TBLT) model appears to be the most suitable for the target group of this study. Whereas the personal expressive syllabus is focused on writing only, the TBLT syllabus covers the four major language skills and grammar. Unlike the procedural and process syllabuses, TBLT is premised on current theories of second language acquisition and it combines the merits of both the product-based and process-based models. It can be easily related to the subjects first-years at UNW take in their mainstream programme. Moreover, while it encourages students' independence and creativity, it does not allow teachers to abdicate their responsibility of giving authoritative guidance.

Chapter 6

METHOD OF RESEARCH

6.1 Introduction

This study is based on descriptive research. There is no "treatment" or manipulation of the subjects in a qualitative study like this one (Nunan, 1998: 4). This chapter, therefore, begins by only examining needs analysis as the basis of the method of research. It then considers the subjects of the study, and lastly, it discusses the steps followed in collecting the data.

6.2 Needs analysis

According to Basturkmen (1998: 2), needs analysis is the identification of difficulties and standard situations by observation of participants functioning in a target situation in conjunction with interviews and questionnaires. West (1994: 15) states that, although grounded in general theories, such as the nature of language and curriculum, it is essentially a pragmatic activity focused on a specific situation.

Several teaching/learning principles make needs analysis almost indispensable in course design (cf. 5.2). Firstly, one of the fundamental requirements underlying learning-centred teaching is that teaching/learning programmes should be responsive to learners' needs. To respond to the growing concern for quality university teaching and learning, and to work out appropriate ways to meet the needs of the students and the community, needs assessment is one of the best tools one can use. If one does not understand the educational needs of students (see Appendices C-G) or those of the society from which they come (see 2.2), one may address them wrongly. A mismatch between the learner and the content or approach to the teaching of a subject will minimize any learning that takes place. Secondly, as many universities are moving towards open and self-learning programmes, it becomes, as Matiru *et al.* (1993: 40) point out, increasingly important to involve students in needs assessment (see Appendices C & D). Thirdly, in an atmosphere of cost containment in universities such as the target group's, there is a need to maximize the use of scarce educational resources. Fourthly, the increasing concern the national Department of Education has for observable

results to meet the demands of manpower must be satisfied. As the Learner Profile (see Chapter 2) indicates, all these principles are pertinent to and should, therefore, inform the analysis of the linguistic needs of first-year law students at UNW.

6.3 Subjects

Fraenkel and Wallen (1993: 383) observe that "In almost all qualitative research, the sample is a *purposive sample*. Random sampling ordinarily is not feasible, since the researcher wants to ensure that he or she obtains a sample that possesses certain characteristics relevant to the study." As the aim of this study is to design a syllabus for first-year law students, the subjects comprised two classes of 65 first-year students who had enrolled for a full time, four-year bachelor of law degree (LL. B.) degree. These were intact classes that had been formed at the beginning of the academic year when the subjects were enrolling for their law programme. One of the classes had 32 students, 17 male and 15 female. The other had 33 students, 17 male and 16 female. Of the 65 subjects, 54 were resident students and the other 9 were commuting students. The students attend time-tabled English and Academic Skills (EAS) classes once every working day. Each lecture lasts forty-five minutes.

The language specialist who teaches first-year law students is among an academic development corps of eleven lecturers. Five of the nine EAS lecturers have a Masters degree as their highest academic qualification, two have a B. A. Honours and two have two Masters degrees each. Four have registered for doctoral studies and those who only have an Honours degree have registered for a Masters degree (cf. 2.2.3). All these lecturers are only language specialists, who either have studied Applied Linguistics, ESL or EFL. In other words, except for Arts and Social Sciences disciplines, they have not studied any of the mainstream subjects to which EAS is now being linked. All of them are L2 speakers of English. Apart from teaching EAS, some of them teach mainstream English courses at undergraduate and postgraduate level. They are all tenured lecturers.

6.4 Steps followed

6.4.1 Consultation with law lecturers

The purpose of consulting with law lecturers was to establish links with mainstream subjects. One of the recommendations of the evaluation of the practical English course at the University of North-West (Agar, 1990) and the pilot study that preceded this research (Gennrich *et al.*, 1996: 15) was that the course should be linked to mainstream subjects (see 7.2.6). This change would obviate the prevalent problem of transfer of skills and enhance the face-validity of the course. Group consultations were held with all the five lecturers who teach first-year law students. One language lecturer acted as the chairperson and facilitator of discussion and another recorded all the important points that were mentioned (see 7.2).

6.4.2 Analysis of the syllabuses for first-year law programme and past exam papers

An analysis of the syllabuses of the six subjects that constitute the programme for first-year at UNW was made in order to determine the topics that are discussed in law classes. The examination papers (main and supplementary) that students write in the first-year law programme were also analysed in order to determine the kind of tasks that students are required to perform (see 7.3).

6.4.3 Diagnostic test

In ELT a diagnostic test is designed to show what language skills or knowledge a learner knows and does not know at the beginning a language course. For a language course to be relevant to students' needs, Ellis (1993: 104) recommends that teachers diagnose the learner's interlanguage development in order for it to fit the content presented in the syllabus. The diagnostic test was based on reading and writing, because these are the skills at which first-years at UNW are said to be poor (see 2.6.3; 2.6.4).

A legal text extracted from a law textbook that was prescribed for first-years was used to set a three-hour diagnostic test (cf. Appendix C). The test had three main sections. Section A involved testing students' ability to do the following: first, studying the text closely in order

to find endophoric answers. This entailed overviewing and scanning the text, grammar and vocabulary, and levels of formality. Second, studying the text in order to arrive at exophoric answers, which involved prediction, separating main ideas from supporting details, and making inferences. Of the thirty questions that made up this section, twenty were of the multiple choice type and the other ten were either open-ended or one-word answers. The results were expressed in the marks obtained and in the rate of success in answering different question types.

Section B concerned essay writing. While students were free to use their own ideas and experiences, they were required to refer to the given passage in the writing of an argumentative essay of about 2-3 pages. Although the topic allowed students to use any of their experiences and knowledge, it required them to use the given text as a basis of their argument. Students' errors in the essays were classified according to a taxonomy of cohesion and coherence. Cohesion refers to the overt language items such as pronouns and connectives, which join one text to another (see 7.7.2.1). Coherence concerns the logical connection of ideas in a text, not always obvious in the language of the text (see 7.7.2.2). Each of these categories was further divided into two sub-categories. One included innocuous errors, i.e. the errors that did not distort meaning and that the reader could correct by using contextual clues. The other involved interpretation-upsetting-errors, which completely upset meaning and made it impossible to retrieve (see 7.7.2.3). The essays were marked impressionistically, the guidelines being the quality of the argument and how it was structured, ability to use the given text well, and grammatical competency. The results were expressed in the marks obtained.

The test was piloted. Initially, it proved to be too long. It allowed students very little opportunity to plan and draft their essays before they produced the final draft. In order to give students enough time to write, section A was separated from section B and were written in different sittings of three hours each (see Appendix C). In section A, if all students got a question right or wrong, such a question was either left out, or rephrased. In some instances options were eliminated or improved. Some reordering of questions was also done. Section B was done fairly well and no changes were made to it.

6.4.4 Questionnaire for first-year law students

The two full-time first-year law classes served as the accessible population and filled in the questionnaire just before the end of the academic year. (The other group of first-year law students consisted of those who were doing the programme on a part-time basis and were not part of the subjects.)

Besides obtaining personal data, the questionnaire for first-year students sought to find out what these learners' perceptions were with regard to their language needs and feelings about them. One of the conclusions of the pilot study (Gennrich *et al.*, 1996) that preceded this research was that students' motivation increases if they see that their needs and feelings are taken into consideration when lecturers design their courses. Personal data involved factual information such as age, previous education, home conditions, etc. Information about opinions, feelings and beliefs was meant to determine reasons for specified behaviour and attitudes.

The format of the questions was varied. Some questions were closed, some were open-ended, some combined open-endedness and closedness (see Appendix C).

The questionnaire was piloted before it was used. According to Selltiz *et al.* (1980: 545), " ... piloting provides a means of catching and solving unforeseen problems in the administration of the questionnaire, such as the phrasing and sequencing of questions, or its length. It may also indicate the need for additional questions or the elimination of others." The students who answered the pilot questionnaire were similar in educational background to those who answered the final questionnaires. Both were full-time, first-year law students drawn from intact groups. Before that, the questionnaires were examined by people who were familiar with the questionnaire method and with this study's area of research. The purpose was to determine if there was any bias in the selection or wording of questions. In addition, the questionnaire was scrutinized for technical defects that might have existed. Some questions proved to be too difficult for first-years so were rephrased. Some were reordered and some were eliminated because they concerned issues that had already been covered by other questions or were irrelevant. Some had to be subdivided because they involved more than one issue. Analysis was done in terms of the problem areas the students experienced.

6.4.5 Structured interview with senior law students

The main purpose of interviewing people is to find out what they think or how they feel about something. As Patton Fraenkel and Wallen 1993: 385) point out:

> We interview people to find out from them those things we cannot directly observe. The issue is not whether observational data is more desirable, valid, or meaningful than self-report data. The fact of the matter is that we cannot observe everything. We cannot observe feelings, thoughts, and intentions. We cannot observe behaviour that took place at some previous point in time. We cannot observe situations that preclude the presence of an observer. We cannot observe how people have organized the world and the meanings they attach to what goes on in the world. We have to ask people questions about those things.

A structured interview was administered to ten senior law students mainly with the expectation that they would be able to offer an overview of their language needs over the entire undergraduate law programme in the light of their own experiences. Defining what a structured interview is, Nunan (1997: 149) says that, unlike an unstructured interview which is guided by the responses of the interviewee rather than the agenda of the researcher and a semi-structured interview, in which the interviewer has a general idea of where he or she wants the interview to go through the topics and issues that he or she introduces, in a structured interview the agenda is totally predetermined by the researcher. He/she controls it through a list of set question in a predetermined order.

In order to obtain a balanced pool of information, the structured interviews involved students of varying capabilities. Three had got above-average marks in EAS, four had obtained average marks, and three had passed the course only after they had failed it before. The interview involved a briefing at first, explaining the nature of the research and the purpose of the interview and answering any questions that they had. Then questioning followed (see Appendix D). To facilitate recall, the questions that offered interviewees several options were written on flip-over sheets of paper which had been clipped on a board. The interviewer took down notes, using a blank questionnaire when each student was being interviewed.

Analysis was done on the basis of the problem areas that the interviewees identified and links were made to the first-years' views as well.

6.4.6 Questionnaire for law lecturers

The purpose of the questionnaire for law lecturers was to complement the consultation, the literature review on the linguistic needs of first-year law students, the results of the diagnostic test, as well as the opinions of the first-year law students and senior law students, which had been collected through interviews and a questionnaire and interviews. First-years' English language proficiency often falls below faculty expectations and these students are usually unaware of the level of proficiency expected.

All five the law lectures who teach first-years were given a questionnaire to fill in (see Appendix F). A questionnaire was preferred to an interview because it was thought that using a questionnaire rather than an interview would be more convenient for law lecturers, because they could answer it whenever they had the time to do so. It was given out at the end of the academic year, just after lecturers had finish marking students' examination papers. Analysis was done on the basis of the problem areas that were identified.

6.4.7 Survey of practical English courses in South African universities

Survey data on practical English courses at South African universities were collected through a questionnaire. Nunan (1997: 140) says that "the purpose of a survey is generally to obtain a snapshot of conditions, attitudes and/or events at a single point in time." In this study, a questionnaire was designed to determine if South African universities offered any practical English courses for their law students presently. If so, the universities had to indicate what the aims, content, methodology and assessment of these courses were. The purpose of the survey was to determine the strengths and weaknesses of these courses as well as trends and emphases. The survey was piloted before it was sent out (see Appendix G).

6.4.8 Triangulation of data

Triangulation was done in order to ensure reliability and validity of data. A study that is based mainly on needs analysis like this one often involves data collection by means of triangulation. According to Matiru *et al.* (1993: 79), triangulation is used in order to obtain as complete and unbiased needs assessment information as possible with data from a variety of sources; three or more techniques. In terms of intervention and control in research, elicitation techniques like those used in this study, viz. questionnaires, a survey and an interview, reside somewhere between the formal experiment and naturalistic observation. They are no perfect instruments. While one is aware of the threats to the validity of one's research, especially as they relate to bias, these devices are some of the most practical means whereby relevant data can be collected in the environment on which this study was based. The other techniques - the diagnostic test and the analysis of the syllabuses for the first-year law programme - make up for the shortcomings of elicitation techniques employed here because they are more objective. This data was then supplemented by the literature review (see Chapters 2-5).

6.4.9 Design of syllabus

All the information that was obtained was synthesised briefly (Chapters 7-8). The synthesis provided a conceptual framework for the design of an English syllabus for first-year law students (see chapter 9). Suggestions for implementation were then made.

6.4.10 Conclusion

As needs analysis is one of the hallmarks of ESP, it was crucial in this study to consider the profile of the subjects, their short-term and long-term needs as well as the broader demands of the subjects' society. To make the study as reliable and valid as possible, triangulation and the literature review were carried out. It yielded data that was then used as a foundation for designing the proposed syllabus.

Chapter 7

RESULTS AND ANALYSIS

7.1 Introduction

As the evaluation of Special English (SPEN) in 1990 and the pilot study that preceded the present research suggested that SPEN should be made more relevant to the students' needs in order to enhance its efficacy and face validity, a triangulation of needs analysis has been carried out in this regard. Triangulation involved, firstly, consultations with law lecturers, an analysis of the syllabuses that constitute the first-year law programme at UNW and past examination papers, and a diagnostic test. Interviews were then conducted with first-year law students, senior law students, and law lecturers. Lastly, a survey of practical English courses in South African universities,

7. 2 Consultations with law lecturers

Formal consultations were held with all five the lecturers who teach law subjects in order to determine the subjects' academic needs. The major problem areas the lecturers identified related mainly to first-years' inadequate language skills. The lecturers indicated, however, that the subjects' deficiencies in listening and speaking skills were not as severe as they were in reading, writing, and basic English. The lecturers' views are given in detail below.

7.2.1 Listening

Four of the five law lecturers said that as students, the subjects should possess good listening skills for decoding lectures. All of them agreed that lawyers, who many of the subjects would become, needed to have good listening skills because they (lawyers) have to understand their clients and their colleagues in seminars, consultations, and court proceedings (see 3.5.1).

7.2.2 Speaking

All the lecturers who teach the subjects agreed that these students did not talk as much as they should. They (the lecturers) pointed out that their law programme prized highly the ability to talk about legal issues convincingly. They said, in addition, that ability to communicate orally was important for law practitioners, who often needed to offer verbal advice to their clients and debate issues in court. In all these situations, speaking clearly, coherently and confidently was very important (see 3.5.2).

7.2.3 Reading

Besides having the ability to skim and scan a text in order to obtain information, the subjects - according to three of their lecturers - needed to be able to read as fast as possible. They were said to have an enormous amount of reading, prescribed and recommended, that they had to do in a short space of time. One of the lecturers also said that when the subjects practised as lawyers in the future, they would frequently need to consult cases, refer to statutes, journals, correspondence, etc. within severe time constraints (see 1.2). It was further pointed out (by three lecturers) that the subjects should be able to see how points related to one another, especially as regards different sections of a case and the functions of these sections. They should be able to identify main points from details and distinguish facts from opinions (see 3.5.3.4). Other reading abilities required of law students are understanding ideas or theories, discovering an author's viewpoint, and reading in order to get evidence for one's point of view in essay writing. A critical attitude is indispensable in all the learning processes of a student's life.

7.2.4 Writing

Since a great deal of confusion may occur where writing is poorly constructed and illogical, four lecturers said that ability to write a methodical presentation was important. Equally important, the same lecturers said, was the ability to integrate seemingly disparate issues because the first-year programme sought - among other objectives - to foster the ability to apply legal principles to factual situations rather than to regurgitate memorized information. Law students and law practitioners, one lecturer said, often needed to be able to select the

facts of a situation, relate them to a legal principle and support their argument by referring to precedents or cases. It was also stated (by two lecturers) that, frequently, lawyers could not give face-to-face service to clients. Thus, they needed to be able to express information as succinctly and as logically as possible to clients in writing (3.5.4). Furthermore, one lecturer remarked that lawyers often needed to summarize information in writing. This requirement applied to verbal information as well. Lastly, two lecturers pointed out that lawyers might also need to paraphrase and express legalese in simple language (see 4.6.1).

7.2.5 Basic English

Three lecturers said that a mastery of basic English, and the ability to punctuate and spell correctly could help improve first-years' performance. They felt that a possession of these rudimentary skills would, among other things, contribute to the subjects' acquisition of legal discourse. They argued that as legal discourse required an adroit use of language, if one did not have good everyday English, it would be hard for one to engage in legal conversation (see 3.5.5). For example, while arguing a case in the present time, the speaker might refer to a past event or precedent (using the past tense) and then make past hypotheses about what could have happened (using the unreal past conditional) and what was likely to happen (using the unreal present conditional with its past tense verbs) and then relate the argument to a principle (using a present real conditional with its present indefinite verbs).

With regard to punctuation and spelling, one lecturer said that the subjects sometimes thought that because they were studying an "important" discipline - law - they should not bother about minutiae such as punctuation and spelling. They often omitted the use of such basic things like putting a full stop at the end of a sentence and beginning one with a capital. The same lecturer stressed that improper punctuation and spelling could distort what the writer intended to convey. Spelling, like punctuation, was important in legal writing because it could affect meaning considerably (see 4.6.1.3. i).

7.2.6 Transfer of skills and motivation

The law lecturers said that they thought that now that English and Academic Skills (EAS) was content-based (cf. 2.3), some students, especially the academically strong ones, showed a

perceptible degree of the ability to transfer the skills they learned in EAS to mainstream courses but the problem of transfer still persisted with weak students. When EAS was still SPEN, there was a perception that it did not contribute to students' degrees (Agar, 1990: 7); that it was not related to the subjects they were doing. This perception seemed to be both a result of students not seeing the direct content relationship between SPEN and law, but also, at best, not having the skills being taught in SPEN reinforced in law in any explicit way or, at worst, not being asked to apply the academic and language skills taught in SPEN in law at all. Fortunately, some of the subjects' mainstream lecturers reinforce and in some cases demand some of the skills and processes taught in EAS. Evidence would, nevertheless, suggest that it is less likely that weak students will be able to transfer what is learnt in one particular academic context to another than it is for strong students. The need for academic skill and language competency is greater in later years, and a student who has had a good grounding usually performs better (Gennrich *et al.,* 1996: 15). Experience would also suggest that in an environment like UNW subject-specific courses contribute to a significant increase in student motivation.

The issue of transferability of skills is linked to the distinction that students often fail to take between language competency and academic skills. While EAS does teach English as a communication system, the course is much more than a course in grammar, sentence construction and vocabulary. For example, a common academic skill is the ability to compare and contrast. The basic part of this skill relates to understanding the words and using the correct grammar and sentence construction which are part of what is necessary to be able to compare and contrast. At a more complex level, however, students have to come to grips with the essential meaning of what it means to compare and contrast, what concepts are comparable and contrastable and what it means to compare in differing contexts. By making the course content-based, EAS is attempting to enable students to handle skills such as comparison and contrast at both language and conceptual levels. One of the briefs of EAS is to provide the foundation of academic and language skills necessary for academic success (see 1.2).

7.3 Analysis of the first-year law syllabuses and past examination papers

7.3.1 The syllabuses

Presently courses for a bachelor's degree are basically the same at all South African universities (Kakula, 1999, personal communication). The difference is only in how they are sequenced. A first-year course at one university might be a second-year course at another. Similarly, examinations in law subjects are primarily all alike in South African universities: mostly written, and often involving essay type-answers. At UNW the five mainstream subjects that constitute the first-year law programme are:

Introduction to the Study of South African Law 105 and 155
Introduction to Criminal Justice 105 and 155
Law of Persons 105 and 155
Indigenous Private Law 105 and 155
Interpretation of Statutes 165.

The following section shows the major topics in each of these syllabuses.

7.3.1.1 Introduction to the Study of South African Law 105 & 155

Topics

The South African Constitution, the Bill of Rights, statutes (legislation), use of law reports, judicial precedent (court decisions), democracy and legitimacy, government, state, common law, natural law, positive law, ethics, customs, indigenous law, divisions of the law, South African courts, the purpose and function of law (i.e. preservation of order and maintenance of justice).

7.3.1.2 Introduction to Criminal Justice 105 & 155/165

Topics

Social order, crime control, policing, community policing, social order, public relations, police-community relations, public attitudes, police stereotypes, discipline, bureaucratic structures, punishment, the Bill of Rights, criminal courts, kangaroo courts, the Constitutional Court, Correctional Services, the prison community, rehabilitation, parole, probation, and release.

7.3.1.3 Law of Persons 105 & 155

Topics

Legal personality, domicile, legal capacity of a minor, prodigality, legitimacy and illegitimacy, adoption, the engagement arrangement, the legal nature of marriage, the legal requirements for a valid marriage, the invariable consequences of marriage, the variable consequences of marriage, and termination of marriage.

7.3.1.4 Indigenous Private Law 105 & 155

Topics

Customary marriage, civil marriages of Black people, children, law of contract, law of succession, property and land rights, application and recognition of customary laws, traditional leaders, criminal law, customary law and the courts, African Customary Law and other legal systems (Hindu and Islamic laws).

7.3.1.5 Interpretation of Statutes 165

Topics

General rules of interpretation (the literal rule, the golden rule, the mischief rule), the Bill of Rights, constitutionalism (reading, understanding and application of a constitution), the functions of courts, judicial decision making, the intention of the legislator, discretion, and parliamentary sovereignty.

7.3.2 Basis for an ESP syllabus

The above details indicate that the content of the syllabuses covers a wide range of topics, which makes the choice of texts for an English course for law students fairly easy. Some of the syllabuses contain similar and/or related topics/concepts. The Bill of Rights, for example, can be related to all the subjects and it occurs in Introduction to the Study of South of African Law, Introduction to Criminal Justice, and Interpretation of Statutes. The concepts of justice, equity and fairness are common to all the syllabuses. The prevalence of one topic across all the syllabuses and the commonality of concepts may serve as a good basis for designing an ESP syllabus. Some of the topics, such as the Bill of Rights, marriage, and abortion, are controversial and topical. Their controversial nature and topicality may be good stimuli in debates and role play (see 9.5.6; 9.5.7).

7.3.3 Past examination papers

Each examination paper of the five courses that first-years take carried 100 marks and lasted 3 hours. About 70% of the examination questions were essay-type questions that required students to discuss given topics in an answer of at least two pages each. The essays were to be argumentative, requiring students to critique, compare and contrast, and explain legal topics. These questions mostly carried 25 marks each.

About 30% of the question papers were based on relatively short answers, involving defining key concepts, writing notes, recalling legal facts, and describing the functioning of some law institutions. A question in this category typically carried low marks, about 5 each in most

cases. Some of the question papers had legal phrases. One had, for example, all the following typical legal terms: *Corpus Iuris Civilis*, *obiter dictum*, the *audi alteram partem* rule, and *mandament van spolie*.

Examination questions, in short, require critical reading, good writing skills, ability to define key concepts, and recall. The development of these skills should be part of the practical English course for law students.

7.4 First-year law students' views on their language needs

The questionnaire that was administered to 65 first-year law students gave rise to the following results:

7.4.1 Biographical information

It could not be gauged how the subjects' matric results correlated with their success at university. The data necessary for this analysis were not available. The questionnaire asked the subjects to give their matric English symbol but the data did not prove to be reliable. The responses to questions on biographical information have been integrated into Chapter 2.

7.4.2 Reason for taking EAS

As Table 1 below shows, the majority of the subjects (63%) took the course because they thought it would help them pass their studies.

Table 1: Students' reasons for taking EAS

	Number of students	%
It seems easy to pass	5	8
I was influenced to take it	3	5
I like studying languages	2	3
I thought it would be helpful	41	63

It is a programme requirement	10	15
It is a bursary /loan requirement	4	6
Total	65	100

Academic development is one of the priorities of Higher Education of the new paradigm in South Africa (*Curriculum 2005,* 1997: 1). It has been acknowledged that many of the first-years are underprepared and redress needs to be effected as soon as possible (see *Report 116,* 1996: 5). 63% indicates students' strong desire to do well in their studies. This is a need EAS may try to meet by increasing it helpfulness.

7.4.3 General aim of EAS

67% of the subjects were aware of the general aim of the course, namely, to help students bridge the gap between school and university and orient them to both the academic skills/processes and linguistic demands of university study. One of the reasons for changing the name of the course from SPEN to EAS was that the latter would highlight the fact that the course was not only about language but academic skills/processes as well that related to students' mainstream subjects. Responses to the pilot study (Gennrich *et al.* 1996: 9) that preceded this research had indicated that, among other things, most of the first-years thought that the course was first and foremost a language course. This impression was strong enough to persist despite students experiencing the course. Many of the students who were resistant to the course were resistant on the grounds that it focused on English language and that because in their eyes they were proficient English language speakers, they did not need to do the course. While this group of students was small, the effect of their discontent was disproportionately large because they voiced their discontent confidently and negatively influenced other students. The change of the name and nature of the course, then, seems to have had significant effect. Involving the subjects more in determining the aims of the course, and making it more content-related, using more transparent assessment criteria, and increasing peer and self-access learning might make the aims of the course clear to even more students (cf. 9.10).

7.4.4 Specific aims of EAS

As the table below shows, the subjects' thoughts on what the specific aims of EAS should be were not unexpected.

Table 2: Subjects' views on the specific aims of EAS

Specific aims	1	%	2	%	3	%	4	%
Help students understand cases	11	9	7	11	16	25	31	48
Help students speak fluently	10	15	23	35	12	18	20	31
Help students with their grammar	26	40	20	38	12	18	7	11
Help students read their textbooks	12	18	14	22	25	38	14	22

The first row of horizontal numbers indicates the ascending order of importance from 1- 4 that the subjects were asked to attach to the given items. The vertical columns indicate the number of students and their percentages.

A law programme involves studying the law, part of which is the study of cases. It is no surprise, then, that the highest score, 48%, was given to the desire that EAS assist the subjects in studying cases. In their studies, the law of precedent is of considerable importance. Besides the ability to read cases with understanding, the subjects need to be able to decode law text books. Thus, 22%, the third highest score, was given for this. "Helping students to speak fluently" was rated very highly with 31%, second only to "helping students to understand cases". The importance of the speaking skill in legal studies and practice was also mentioned by senior law students (see 7.5) and law lecturers (see 7.6). EAS should include, then, decoding of cases and law textbooks in its processes or activities.

7.4.5 Content-based or general English

Question 28 and 29 asked if the subjects preferred the course to be content-based or general and, if it were to be content-based, asked them if they would like it to be programme-related or subject-related, respectively. The subjects who said they wanted it to be general were not

supposed to answer the second part of the question, but many did. It seems that these subjects thought it was obligatory to give a response to all questions, including those that had been made not applicable to them by the previous the choices they had made. Four subjects said they did not care what the nature of EAS was because they were not interested in it in the first place. Most of the responses (40 students or 75%) indicated that EAS should be designed in such a way that it was of immediate relevance to their needs. This sentiment was also expressed in the other questionnaires in this study (see Appendix C,D,E). Of those forty subjects, 73% said they would prefer a programme-linked to a subject-linked EAS. The subjects would apparently like EAS to be linked to all their courses in order to maximize transferability of skills (see 2.5).

7.4 6 Perceived importance of skills

On the question of which are the most important skills for success in the study of law (question 20), the subjects ranked writing first with 73%. This was followed by speaking with 65%, then reading with 53%, and lastly listening with 20%. The writing skill was ranked far higher than reading perhaps because, as students, the subjects needed it to write assignments, tests and exams. Also, as law practitioners, they would need it to write letters and reports to clients and colleagues. But, surprisingly, they did not see how closely connected writing was to reading, which was given a mere 12% (cf. 8.13.5).

7.4.7 Preferred means of learning

The subjects' preferred means of learning seem to be biased towards group work. Input received through tasks that involved group work was given the highest score, 66%, perhaps because at the beginning of their academic year, the subjects did an exercise specifically meant to demonstrate the effectiveness of learning in this way. Computer-assisted learning was the second most popular item with 45% (cf. 5.6.1.3.i.c). Also, there was a high preference for lectures (42%) and a fairly low regard for student-led seminars (38%). The low percentage for student-led seminars is, perhaps, an indication of the inordinate teacher-dependency these subjects adopted in their schools. Table 3 below shows these statistics with subjects' numbers for each item, the ascending order of importance from 1-4, and the percentages.

Table 3: Students' preferred means of learning

Means of learning	1	%	2	%	3	%	4	%
Individual and tasks	5	8	7	11	10	15	43	66
Lectures	7	11	17	26	11	17	27	42
Students-led seminars	6	9	18	28	15	23	25	38
Study guides	25	38	9	14	12	18	16	25
Computer-assisted learning	11	17	8	12	15	23	29	45

7.4.8 The subjects' self-assessment

The subjects' self-assessment of their language skills yielded varied results. The subjects were asked to give a 1 for good, a 2 for satisfactory and a 3 for unsatisfactory in terms of seven language aspects and the following responses in Table 4 below were received:

Table 4: Students' self-assessment of their competence in language skills

Language skill	1	%	2	%	3	%
Listening	43	66	18	28	4	6
Speaking	10	15	35	45	22	35
Reading	42	65	20	31	5	8
Writing	38	58	23	35	4	6
Grammar	17	26	38	58	10	15
General vocabulary	13	20	45	69	7	11
Legal vocabulary	11	17	41	63	13	20

In the category for good, the rating for listening skills was 66%. This is most probably attributable to the fact that, although at the beginning of the year the subjects' listening skills

tended to be very inadequate, they improved so rapidly from about the beginning of the second quarter that by the time that period ended, they (the subjects' listening skills) were satisfactory. This is also the experience of the law lecturers (cf. 7.2). The subjects' high ratings of their listening skill are, in all likelihood, indicative of this fact.

As was the case with senior law students (see 7.5), one of the major concerns the subjects had was the development of their speaking skills. Only 15% said that their speaking skills were good. This low ranking suggests students' awareness of the demand that their speaking skills ought to be good. As indicated in the questionnaire for law lecturers (see Appendix F), speaking is very important in the training of law practitioners.

The subjects ranked their knowledge of grammar as very low. But as mentioned above (see 3.5.6), good grammar is indispensable in legal studies and practice. The subjects' low ranking of their grammar hints at their awareness of this fact. This result also compares well with the senior students' high ranking of the importance of grammar in 7.5.3.

The other area the subjects were least satisfied with was legal vocabulary, an area in which only 17% said they were good at. Grammar and vocabulary are closely related. For law students to conceptualize and express their subject matter adequately they need to possess a good repository of general and content-related vocabulary.

To all intents and purposes, these statistics indicate the subjects' legitimate concerns about their academic and world-of-work needs. What seems unrealistic is the subjects' ranking of their abilities to read and write. 65% said that their reading skills were good and 58% said the same about their writing ability. Perhaps the subjects assessed their abilities in terms of the high school demands from which they had just graduated. Murray and Johanson (1990: 15) point out that, generally, while UNW students underrate their ability to speak, they tend to overestimate their ability to read and write.

7.4.9 The ratings of EAS

Question 24 asked the subjects to rank the usefulness of EAS on a 0-100% scale. 63% gave EAS a 65%-100% rating. 37% indicated a negative attitude towards the course. Three of the

English L1 students said that they would not have taken it if it had been optional because they thought that their language was adequate. Seven of the L2 subjects who had obtained good symbols in English (Bs, Cs) said the same. Their rating of EAS was, as may be expected, low - 0%-20%. All in all, the average rating of EAS was 57%. This contrasts with the 41% rating the course was given in the pilot study when it was still a general English course. The image of EAS is most likely to increase over time as its re-conceptualisation continues and the resultant improvements are being made.

7.4.10 Desired major changes

As already indicated above, most of the subjects were concerned about the inadequacy of their speaking skills. The development of these skills was rated as the most important improvement the subjects would like to be made to EAS (61%). Although the speaking skill may be extremely important to the subjects, judging by law lecturers' input in this study, it is not as important as the ability to read and write well (see 7.2.3; 7.2.4).

The second major change the subjects wanted concerned the integration of EAS in the mainstream courses. 48% of the subjects who answered the questionnaire indicated that this was one of their major needs. It appears that total integration can only be a long-term goal because mainstream staff would first have to be persuaded about the necessity to restructure their courses this way. They would also have to be trained to make them aware of their students' language needs and how best they could meet them. A compromise between no integration and total integration is to offer an adjunct course, in which language specialists consult as much as possible with content specialists in designing and teaching EAS.

The teaching of grammar is the third most frequently mentioned need. 38% of the subjects indicated this as one of their major concerns. It is not unexpected that this should be so, because precision, including grammatical precision, is important in law and most of the subjects' lecturers are sticklers for grammatical accuracy (see 7.2; 7.6). Besides, the subjects themselves feel, as do senior law students, that perhaps for them to establish their academic credentials, they need to speak and write grammatically.

The next major change the subjects (26% of them) would like in EAS concerns their English needs after university. Although it would be the ideal to redesign mainstream courses to meet students' language needs after graduation more adequately, which is one of the goals that the state wants Higher Education to reach as soon as possible (*Report* 116, 1996: 22), it may take some time to realise this end. Also, one often gets the impression that students want to be taught all the skills law practitioners would need in the practice of their profession, something which is unrealistic to expect from a language specialist whose major concern is the teaching of language. While EAS lecturers may try to relate the teaching to law, it needs to be borne in mind that they are not content specialists.

The last major change mentioned by the subjects (23% of them) is the desire to have EAS computerised. Because of the popularity of electronic communication such as the World Wide Web, the Internet and E-mail, many students feel that they need to be computer literate. One wonders, however, if they are aware that being computer literate alone is not the panacea for all their problems. Furthermore, besides the expertise that it requires, computerising the course has financial implications that the university may not be ready for, such as employing more staff, acquiring more equipment and the place where it would be housed.

Minor changes would be easy to effect. Speed reading, study skills and time management, and use of videos, films and educational visits could be integrated in the course without much difficulty. With the curricular transformation that is taking place in South African universities (cf. 7.8.4), it should soon be possible to tell which students need to take EAS for less than a semester and which do not.

7.4. 11 Non-academic problems

Responses to non-academic problems were fairly predictable. A recurrent non-academic problem, that was raised by 54 subjects (83%) and which appeared to have more adverse effects than others, was that which was finance-related (see 2.2.1.1), as Table 5 below shows.

Table 5: Students' non-academic problems

Type of problem	Number of students	Percentage
Financial problems	54	83
Culture shock and alienation	9	14
Domestic demands	5	8
Love affairs	4	6
Travelling to and from campus	3	5
Self-image	1	2
Illness	1	2

The high percentage for "financial problems" point to the fact that no teaching/learning situation occurs in a vacuum. Environmental conditions like the indigent families from which most of the subjects come from (see 2.2.1) may undermine good academic intentions, so they should be taken cognisance of. The subjects were under great pressure to pass. The bursaries or loans on which 88% of them depend require that throughput and output be optimal. Failure to continue to the next year normally results in the withdrawal of the bursary/loan. The urgency to pass was also indicated by the 63% of the subjects who said they chose EAS because they thought it would help them pass their courses. EAS needs to ensure that as many students as possible realise this goal.

The second most serious non-academic problem was culture shock and alienation (14%). This would appear to be a minor problem because, in time, students normally adapt to the foreign environment. One of the causes of the unfamiliarity of university life may be the fact that, because the subjects are used to teacher-dominated learning, the independent learning that their studies require becomes alienating.

The other problems, namely, love affairs, illness, time wasted by commuting from home to the university and vice versa, self-image, culture shock and alienation were all less serious with 2-8%.

7.5 The structured interview with senior law students

Views of 10 senior law students with whom structured interviews were conducted (see Appendix E) yielded the following results:

7.5.1 Is there a need for a practical English course at UNW?

An overwhelming majority of the senior students that were interviewed (80%) said that, as first-year students, they needed SPEN. The major reason for this was that they had been underprepared in terms of academic skills and language. SPEN helped them acquire general writing, reading, study skills, and to a lesser extent, grammar. However, most of them (70%) could not easily transfer these skills to their mainstream subjects (cf. 2.5). The same percentage said that their language skills remained inadequate even after they had passed SPEN. The same students said if the course had been optional they would still have taken it, though. All ten interviewees said that SPEN should be introduced in first-year because that was where the need for it was the strongest. But one of them who had got an above-average mark in SPEN said that the general SPEN course that he took was not very useful because it repeated high school work and if the course had been optional, he would not have taken it. Two of the three students who had failed SPEN had each passed only one law subject. Of the six who had passed SPEN, three had failed only one law subject. From this trend one could surmise that students who fail SPEN tend to fail their law subjects too and the converse is also true. Agar (1990: 7) observes, however, that sometimes students (not necessarily law ones) who fail SPEN pass their mainstream subjects (see 2.3).

7.5.2 What should the aim of the course be?

The interviewees seemed to want value for their money. As Table 6 below shows, 70% of them said that the major aim of SPEN should be to help them pass their mainstream courses:

Table 6: Students' wished-for aims of the course

	1	%	2	%	3	%	4	%
preparing students for efficient and confident use of language			2	20	6	60	2	20
helping students to pass their law studies					3	30	7	70
developing students' critical thinking					5	50	5	50
increasing students' general knowledge	6	60	4	40				

The question asked them to rank the given four aims of SPEN using 1-4, with 4 indicating the most important aim (see Appendix E). The table indicates that students' immediate concern was that the English course they took should have helped them pass their law programme. This need correlates with the pressure to pass, which most of the subjects experience (see 7.3).

7.5.3 What should the content of the course be?

Of the major language skills, speaking was ranked as the most important ability. 70% of the interviewees said that they needed the skill not only for helping them do well in their studies but also in their practice after graduation. This echoes the same need that was indicated by the first-year law students in their questionnaire (cf. 7.4.2). Writing was ranked second with 60% and reading third with 50%. Like first-years (cf. 7.4.6), senior students were aware that good writing skills are essential in their studies. They also seemed to be aware of the close connection that exists between reading and writing, because there is only a 10% difference in their ranking of these skills. First-years missed this connection; in their ranking of the same there is a 23% difference (cf. 7.4.6). Just as in the first-years' (see Appendix D) and law lecturers' rankings of the language skills that are important for success in law studies, (see Appendix E), listening was ranked last (30%). Students tend to overcome their listening problems by the end of the first semester (cf. 7.4.8).

Senior students seem to want grammar to be part of the course. In fact, in answer to question 7, six of them said they thought SPEN was about the teaching of grammar when the course was introduced to them and were disappointed when it turned out that it did not teach grammar directly or explicitly. In question 23, 80% of the senior students said that the marking of their essays should not involve only the highlighting of the mistakes that obscure meaning but indicate all grammatical errors as well. In keeping with the importance of precision in law, senior law students seem concerned about grammatical precision.

7.5.4 What should the nature of the course be?

70% of the interviewees said that they would prefer a content-based practical English course. 20% said it should be both general and content-based and only 10% said they would prefer a general practical English course. Concerning the degree to which a practical English can be linked to a mainstream subject, 50% of the interviewees indicated that SPEN should be programme-linked. This contrasted with the 30% of the interviewees who felt that it should be subject-linked and the 20% who thought that it should be both programmed-linked and subject-linked. These figures correlate with the high preference (90%) the senior law students indicated when they chose a law lecturer who was also a language specialist over a mere language specialist for teaching SPEN. Of the practical English course on South African campuses surveyed, 72% of them have been transformed from general English to English for Specific Purposes (ESP) courses (7.8.4). Where this transformation is at an advanced stage, the course is not only programme/faculty-related but also subject-related. That is, subjects have been changed in order to integrate and meet the language needs of underprepared students. So it would seem that the ideal practical English model is that which is integrated into a specific subject, because such an approach obviates the problem of transfer and engenders higher motivation.

7.5.5 What means of input provision do law students prefer?

Perhaps because the interviewees placed such a high premium on the acquisition of speaking skills, they wanted to have lessons that allowed for the development of speaking. Although the traditional way of teaching, i.e. lectures, was ranked fairly high (70%), the highest percentage (90%) was for lessons that allowed students to talk - doing tasks from a textbook

alone and later in groups. The use of study aids, which allows students the least chance for talking, was ranked the second last (50%). While the interviewees prized ability to talk, when they were asked if they could help run conversation classes, the ranking of this capacity plummeted to 30%. L2 students' tendency to depend on the teacher inordinately is probably the reason for this attitude (see 2.2.2).

7.5.6 What are the important language skills needed in law studies?

In question 20 the interviewees were asked to indicate which language skill they thought was the most important for success in the study of law. They were to indicate their choices with 1-4 in the ascending order of importance as Table 7 below shows.

Table 7: Students' views regarding the important skills needed in law studies

	1	%	2	%	3	%	4	%
listening	2	20	3	30	3	30	2	20
speaking			1	10	1	10	7	70
reading	1	10	1	10	3	30	5	50
writing			1	10	2	20	6	60

As the table above shows, the speaking skill is immensely important to law students. The 70% given for it correlates with the similar high significance that first-years as well as the law lecturers attached to this skill. It is also linked to the participatory element the interviewees said should characterise the course when they were asked to suggest changes to the course (see question 24).

7.5.7 Are students satisfied with the way the course is assessed?

The interviewees appeared to be happy with assessment in SPEN. Only 30% said they were not happy with it. One of the dissatisfied 30% said the course ignored the testing of oral proficiency. This is yet another indicator of the high importance that law students attach to the ability to speak (see 7.4.6). Another interviewee said that he would like to see more

student involvement when the criteria for assessment are decided. The English department, it would seem, needs to exploit students' interest in the developing of their speaking skill in some way or other in order to enhance the marketability of the course to first-year students.

7.5.8 What major changes do students want in the course?

The interviewees voiced the following three demands regarding improvements to SPEN: first, that the course be content-related (70%); second, that the course be participatory (25%); third, that it involve the teaching of grammar (15%).

The need to relate SPEN to law was also voiced by first-years (see 7.4) and law lecturers (see 7.6), and the survey of practical English courses indicates that this in now common practice in most South African universities (see 7.7). 70% of the senior students, who took the course before it was made content-related, said that there was not anything they found useful for their mainstream subjects in it. Moreover, 90% of them said that they would prefer a law lecturer to a language specialist to teach them SPEN. The initiative that has been taken to make SPEN content-related is, therefore, a step in the right direction.

The second demand suggests that ability to speak is important to law students. This demand is in line with current practice of putting emphasis on collaborative and participatory learning as opposed to competitive, individual learning in ESP. It also correlates with the high ranking the first-years gave to the importance of the speaking skill over the other skills (see 7.4).

60 % of the interviewees said that one of the ways of improving SPEN was to teach grammar. The same need was expressed in question 23, where 80% of the interviewees said that when their essays in their law subjects were being marked, they would like lecturers to mark not only the mistakes that obscure meaning but also those that were purely grammar-related. As already mentioned (see 3.5.6), ESL students usually want not only to acquire the ability to express themselves; they also want to do so in a grammatically acceptable manner. Fortunately, as law lecturers themselves value grammaticalness in their students' writing highly, there is no disjuncture between what SPEN teaches and what mainstream lecturers expect in this regard.

7.6 The law lecturers' responses concerning the language needs of their first-year students

The structured interviews that were conducted with law lecturers (see Appendix F) yielded the following results:

7.6.1 The need for and the nature and duration of EAS

Generally, law lecturers agreed on at least four points. First, they agreed that, since there was a gap between high school and university, their first-years should take EAS in order to bridge this gap and that EAS should be introduced where it was needed most, i.e. in the first year. The literature review above has confirmed this gap (see 2.5). Second, all of them said that EAS should be content-based because face validity was very important to the subjects. The course should be seen to be tailor-made for them, otherwise their motivation would be very low and the course would consequently fail to achieve its goal. The pilot study that preceded this research (Gennrich *et al.*, 1996) reached the same conclusion. Third, all the law lecturers held that EAS should be programme-linked rather than subject-linked, because the former would relate the course across all their subjects and not concentrate it on only one of the subjects. Most of the subjects (see 7.4) and most of the senior students that were interviewed (see 7.5) expressed the same opinion. Fourth, lecturers said that they thought that EAS should not last more than one year. Concern about the time they needed for teaching content caused them to feel that one year was the maximum time they could allow for EAS.

7.6.2 The ideal EAS teacher

As far as who the best person to teach EAS is concerned, it looks like it may take a long time to find the ideal incumbent. Judging by the 60% of the lecturers who said it should be language specialists who should teach EAS and 40% who said it was people who were both language and content specialists, it would seem that while all the law lecturers would like to see their students improve their language skills, they are loath to shoulder the responsibility of teaching language skills. One reason for this could be that, since students' problems are mainly language-related and law lecturers are not language specialists, they reckon it is language lecturers who are in a better position to teach EAS. In an ideal situation, it would be a law lecturer who was also a language specialist who would teach the subject best, but

given the financial constraints that UNW and tertiary institutions generally are experiencing in the country presently, and given the low rewards that are often associated with academic development work, one is compelled to make do with the less-than-ideal available resources (see 10.3).

7.6.3 Listening skills

All five the law lecturers said that the subjects' listening skills were inadequate. One cause of this was, according to the lecturers, their (the subjects') lack of basic English skills. Another concern was that the subjects' participation in lectures and seminars suggested that they did not analyse, synthesize and evaluate the input to which they listened (see 3.5.2.4). As a result of the subjects' unsatisfactory listening skills, random checks that two law lecturers carried out in the first quarter of the academic year revealed that the subjects often took down inadequate notes during lectures. According to these lecturers, the gravity of this problem seemed to lessen progressively later in the year, though.

It was pointed out before (see 2.2.2) that most of the time lessons are conducted in the vernacular in many black schools - even English lessons - and that most of the pupils' exposure to English is minuscule, students like subjects of this study, need some time to adapt to an environment where the medium of instruction is exclusively English. The fact that most of the subjects' English competency is poor, compounds their listening problems.

7.6.4 Speaking skills

The subjects' speaking skills were, according to the lecturers, also inadequate. The subjects' lack of functional English, often suggested by the tendency to gesticulate at the expense of verbal expression, made it difficult for them to express themselves, the lecturers said. Fear of losing face in front of peers and lack of self-confidence exacerbated the problem. It was pointed out that one of the requirements of the law programme was that the subjects should be able to present a coherent argument orally (cf. 7.2.2). Since the subjects' basic English was lacking, they often experienced difficulty carrying out basic functions like asking questions in lectures, participating in seminars/discussions, and making oral presentations and answering ensuing questions. The subjects' speaking skill needs to developed and their poor

self-image changed (cf. 2.6.2). The inhibition they tend to show is one of the means of saving face. They should be persuaded that they can improve their past mediocre performance.

7.6.5 Reading

Many of the subjects were said to be unable to meet the advanced reading demands of their programme. For the five main courses that the subjects took, they had to read at least twelve textbooks and a large number of cases. Additional readings involved reading articles from law journals, magazines, newspapers and recommended books. Between 40-80% of the lecturers said that, since many of the subjects had appallingly poor vocabulary, grammar and background knowledge, they encountered serious reading problems, as Table 8 below shows.

Table 8: Students' reading problems

Problem areas	*No. of lecturers*	*Percentage*
following an argument	3	60
separating main from minor points	3	60
relating readings to one's own life	3	60
synthesising information	4	80
distinguishing fact from opinion	2	40
grasping concepts	2	40
reading critically	4	80

The subjects' law programme demanded a great deal of analytical and critical reading of materials from different sources (see the assessment of examination papers in 7.3). If students possess these skills, they are most likely to use deep rather than surface processing in their reading. Deep processing facilitates recall; surface processing is limited to short-term recall only.

7.6.6 Writing

All the law lecturers said that writing demands were too high for most of the subjects. Given the type of examinations and writing assignments that first-year law courses involved, the subjects were expected to be able to structure an argumentative essay. They wrote, at least, two assignments of about five pages per course in a year. The topics were, in the main, argumentative. As one of the lecturers indicated, the subjects were expected to express legal opinions on hypothetical problems and many could not meet this demand. Besides minor weaknesses such as a lack of rigour, punctuation, spelling, plagiarism, and style which could be improved fairly easily, lecturers said the worst problems occurred in the following areas: a lack of a critical approach to the subject matter, organization and development of ideas (coherence), vocabulary, and poor expression (see 3.5.4). This suggests that the subjects may fail to express the knowledge they have because of their poor language skills. Furthermore, poor language skills may drive most of the subjects into committing mistakes such as plagiarism, verbosity, incoherence, and vague and inaccurate expressions. Regarding the mechanics of writing, failure to conform to the conventions usually creates a bad impression. Using the conventions incorrectly can affect meaning significantly in law (cf. 4.4.1).

On the question of how much importance lecturers attached to different aspect of writing, they said all the items in the questionnaire were important, but the ones they attached the least importance to were originality, presentation/neatness, proper use of resources, and appropriate style. The items to which they attached the second least importance were: spelling, punctuation, and range of vocabulary. Table 9 below shows the areas 80-100% of the lecturers said they attached a lot of importance to were the following:

Table 9: Language areas that are important to law lecturers

Aspect of writing	*No. of lecturers*	%
simple, clear language	4	80
critical approach	5	100
organization and development of ideas	4	80

rigour (e. g. scope and specificity)	4	80
grammatical accuracy	4	80

One notices inconsistency in the fact that vocabulary does not feature among the items to which high importance was attached. Perhaps law lecturers are unaware that these items, especially "simple and clear language" are often determined by one's range of vocabulary. All in all, good writing skills, including the mechanics of writing, should be included in the proposed syllabus in order to increase the subjects' chances of passing.

7.6.7 Legal English

It would seem there is a need for the teaching of Legal English. All five the law lecturers said that the subjects should be taught Legal English because they would appreciate the law they were studying all the more and would be better prepared for their profession if they were familiar with it. Also, all five said that Legal English should not be simplified for students. One reason for this was that simplification would delay the subjects' mastery of it. Another reason against simplification was that if it was effected at one level, it - very often - created complexity at another, or compromised precision, which was so important in legal discourse (cf. 4.6).

7.6.8 Assessment

The subjects wrote at least one test in each semester and one take-home essay. Tests took the form of a short essay, short notes, definitions and short phrase answers in most cases. Essays were based on expressing legal opinions on hypothetical problems. Multiple choice questions were seldom used. The subjects needed to have at least a 40% year mark in order to qualify for exams. Their performance in the tests and take-home assignments counted 50% of the final mark. In the last three years the pass rate in the five courses that students' took was 55%, on average. Law lecturers said that students whose English was good usually did better than those whose English was poor (cf. 7.2).

The subjects appear to need some help in preparing for tests and examinations, most of which are of the essay-type. They have to prove that they are ready for examinations by getting, at least, the minimum semester mark. Failure to obtain the minimum semester mark (40%) leads to forfeiture of the chance to write examinations. That the examination mark is combined with the semester mark and the average of the two scores becomes the students' final mark implies that students are required to perform well consistently. The importance of preparing the subjects for all their tests and examinations cannot, therefore, be overemphasised. The average pass mark of the last three years is likely to improve if students' language competence is improved.

7.6.9 Overall impression about EAS

Opinions varied on the adequacy of what the subjects were taught in EAS: three lecturers felt it was sufficient, two felt it was not. The three who indicated satisfaction also said the course should be taught by a language lecturer. The two who indicated dissatisfaction also said it should be taught by a law lecturer who was a language expert too. It appears that it is only when EAS is firmly established in content-based teaching that more lecturers will view it as a worthwhile course, because the same lecturers who were dissatisfied with its efficacy were the very ones who were the most unhappy with the subjects' failure to transfer skills from EAS to mainstream subjects (see 7.2).

7.7 The results and analysis of the diagnostic test

The diagnostic test of this study comprised a comprehension test an essay test. The results are discussed below.

7.7.1 The comprehension test results

The highest score in the comprehension test (see Appendix C) that the subjects wrote was 41 out of 50 (82%), the lowest was 11 (22%), and the average was 23 (46%). Some of the subjects failed to follow the instructions. For example, where they were told to simply write the letter that corresponded with their choice, 26% of them would write the whole answer out. They were not penalised for this mistake (see questions 7-19; 21-27 in Appendix C). Another mistake occurred where a one-word answer was expected (see question 30 in

Appendix C). 21% of the subjects gave more than one word and they forfeited marks for that. Only 10% of the subjects who made mistakes like these finished the test.

7.7.1.1 Endophoric information

13 subjects (20%) did not answer the question on skimming (see question 1 in Appendix C), perhaps because they did not know how to integrate the different ideas of the sections of the text. 9 (13%) missed the point; 5 (8%) merely wrote the subtopics or the first sentences of some paragraphs exactly as they appeared in the text. Only 38 (59%) answered the question on skimming correctly.

Scanning (question 22 in Appendix C) was not done well either. Only 27 subjects (42%) scanned correctly the meanings of Latinate words, which were given in the text. These words were italicized and should have been easy to locate.

Skimming required the subjects to make predictions on the basis of the little information that they had (question 1 and 9, in Appendix C) and scanning required them to locate pieces of information in the given text using the clues that were provided. As students, the subjects need to skim and scan their readings when they research their essays and when they prepare for tests and examinations. As legal practitioners they need to skim and scan a great number of documents and correspondence. Skimming and scanning save readers time because they do not have to go through the whole text when they use these techniques. The subjects could have obtained 16% by using skimming and scanning correctly in question 1 and 22 (see Appendix C). Generally, the subjects' reading speed, as their lecturers pointed out (see 7.2.3), needs improving. Some of the subjects did not finish the test, most probably because of their slow reading speed.

Many subjects had serious problems with understanding the devices that make a text cohesive. A student who knows what holds a text together could have easily obtained 20 marks (40%) by answering questions 22-29, which are based on cohesion. 37% of the subjects got less than 10 marks in these questions. For students to read successfully, one of the abilities they need is to understand the functioning of the language forms that connect one

piece of text to another; phrases such as logical connectors and references between sentences and across them.

Grammar-based and vocabulary-based questions indicated that many of the subjects could often use their knowledge of the system of English to decode text. Question 23 (see Appendix C), which was based on the meanings of "or" (synonymy) and "or" (alternative), was answered correctly by only 28 (43%). Question 27 required students to link "On the one hand" in paragraph 3 with "Viewing the law from another angle" in paragraph 4. Only 31 subjects (48%) managed to do this. In vocabulary related questions, 9 subjects (14%) did not know the meaning of a common legal phrase such as "in the eyes of the law" (see question 13 in Appendix C). The meaning of "party" was missed by 7 (11%) subjects (question 15 in Appendix C).

Understanding the meanings of words in their contexts posed a problem to many subjects. When trying to deduce meaning, many of them often responded in a stereotyped fashion. For example, while their text was based on the concept of legal subject, the word *subject* was also used to mean "any person living under any monarchy or any other form of government" in the same text (question 19 in Appendix C). The latter meaning was missed by 42 subjects. A similar mistake was made in the interpretation of the word *traffic*, where it meant "interaction between people" and not the usual "movement of vehicles on a public road" (question 18 in Appendix C). Lakoff and Johnson (1990:12) give the following narrow view of reading, which they criticize and which seems to have been adopted by most of the subjects:

* ideas (or meanings) are objects.
* linguistic expressions are containers.
* communication is sending.

This means that the speaker puts ideas (objects) into words (containers) and sends them (along a conduit) to a hearer who takes the ideas/objects out of the words/containers. Lakoff and Johnson (1990: 10) state that "The conduit metaphor does not fit cases where context is required to determine whether the sentence has any meaning at all and, if so, what meaning it has." This approach ignores the fact that meaning is often in the mind, not on the page. It is

often context or/and the reader's interpretation that give words meaning. On their own, words seldom have meaning (see 3.5.3.2).

7.7.1.2 Exophoric or inferential meaning

Most of the subjects experienced more problems in this area than in the previous one. Question 30, which required the subjects to give less formal words for their formal equivalents, was too difficult for 43 subjects (66%). Out of the seven items this question consisted of, these subjects got between zero and two right. For polysyllabic words like *terminate* and *attribute*, many subjects could not provide the monosyllabic, Anglo-Saxon equivalents, i. e. *end* and *give*. They tended to give equally long words for answers: *finish* for *terminate* and *partake* for *participate*, for example.

Another problem relates closely to students' inability to understand concepts (Slonomsky & Turton, 1985: 51). Five questions (question 3-8) required the subjects to give the main ideas of the passage and none of them got all these questions right. The student who obtained the highest marks got three right.

7.7.1.3 Metacognition

The question that involved metacognition was also answered badly. Question 2 was based on a paragraph which introduced a two-aspect subtopic and then discussed the aspect that had been mentioned first. 41 students (63%) could not identify this information structure.

Question 12 required the subjects to indicate their understanding of information structure by identifying the number of issues that the law of persons was said to deal with in the first paragraph. After mentioning the first one, a parenthesis was given in the paragraph in question. The second issue was then introduced and, lastly, the third. Following that, was a sentence which paraphrased the main idea of the paragraph. Only twelve subjects (18%) were able to give the right answer to this question.

Question 9 involved prediction. It introduced a subtopic and listed its components. The subjects were expected to know that the most likely manner of presenting information in an

expository text is to mention the topic sentence first and then its supporting details. 34 subjects (52%) did not use this schema and consequently got the question wrong.

Metacognition facilitates comprehension and the subjects' reading could be improved by giving them exercises that raise their awareness of how information is structured in a text (see 3.5.3.6). The reading of cases, for example, becomes a great deal easier if you know their format.

7.7.2 Essays

The diagnostic essay test (see Appendix C) revealed that most first years have problems with cohesion, coherence, and grammar.

7.7.2.1 Cohesion

Cohesion refers to language forms like pronouns and connectives, which overtly connect one piece of text to another. Coherence is about the connection of thoughts and ideas not always obvious in the language of the text. It involves devices like conjunction, reference, substitution, ellipsis, lexis, subject-verb concord, tense, parallelism, etc. Table 12 below shows the details of the errors that students made.

Table 10: Students' cohesion errors

Type of error	Number	Percentage
Reference	*123*	*40.1%*
pronominal	69	
demonstrative comparative	33	
comparative	21	
Substitution	*7*	*2.2%*
nominal	4	
verbal	3	
Ellipsis	*11*	*3.5%*
nominal	5	

verbal	6	
Conjunction	*91*	*29.7%*
additive	63	
adversative	12	
causal	13	
temporal	3	
Lexical	*49*	*16%*
repetition	7	
synonymy	20	
hyponymy	3	
collocation	19	
Parallelism	*25*	*2%*
coordinated ideas with single a coordinator	11	
coordinated ideas with double coordinators	5	
compared and contrasted ideas	9	
Total	*306*	*100%*

Typical examples of the errors above include the following categories:

7.7. 2.1 (a) Conjunction

(i) *Additive*

Whereas the poor woman was bedridden and pregnant her husband had just been retrenched.

The sentence above can be corrected by leaving out "whereas" and putting in "and" after "pregnant".

(ii) *Causal*

The reason why the Christian League raised objection was *because* they felt that abortion is immoral.

Substituting "because" with "that" will make the sentence above grammatical.

(iii) *Adversative*

Nowadays, *although* abortion is allowed *but* it is still illegal.

Leaving out one of the conjunctions will make the sentence above correct.

(iv) *Temporal*

Where Cronje (1994) states " a person's right to a certain object creates obligations" we should think of an unborn baby in the place of that object.

"When" will fit better than "where" in the above sentence.

7.7.2.1 (b) Reference

(i) *Pronominal*

Our constitution does not give the foetus any right to life. That means *they* are no more regarded as humans.

It is unclear what "they" refers to above.

(ii) *Demonstrative*

Although there were some practices of muti used by some other witchdoctors to terminate the pregnancies, they were punished together with *that* woman who had done *that*.

The referents for "that" and "that" are unclear.

(iii) *Comparative*

Many abortion are committed now than before.

"Many" should have been "more" to make the comparison clear.

7.7.2.1 (c) <u>Substitution</u>

(i) *Nominal*

Even in the Bible killing of another human being was not allowed, that is why they were punished for killing *another*, except in a war.

It is vague what "another" refers to in the above sentence.

(ii) *Verbal*

In big cities people usually shack up, it causes no embarrassment at all now; every woman will not hesitate to *do so*.

It is unclear what "do so" stands for in the above text.

7.7.2.1(d) <u>Ellipsis</u>

(i) *Nominal*

Modern women are not like in the old days.

Putting "the women" after "like" would make the implied comparison complete.

(ii) *Verbal*

A child should not be aborted only because its conception was a mistake or unplanned because its simply immoral.

Adding "to do so" at the end the sentence above makes it sensible.

7.7.2.1(e) <u>Lexis</u>

(i) *Repetition*

If a woman has suffered severe deprivation and has been a victim of rape and it results in a pregnancy, she should be allowed to abort.

The phrase "the rape" or "the latter" should have been used in the place of "it". As the sentence above stands, it is unclear whether "it" refers to "severe deprivation" or to "rape".

(ii) *Derivation*

Some people do believe that it is necessary that abortion be legalized, others do not agree on that especially when taking into consideration our different religious *believes.*

"Believes" should have been "beliefs".

(iii) *Synonymy*

Never in the history of mankind have as many babies as are *killed* today been *killed.*

In the place of the second "killed", "murdered" or "exterminated" could have been used in order to effect elegant variation.

(iv) *Hyponymy*

The constitution states that every person has a right to life. Also enshrined in *the constitution* are the women's rights to do what they want with their bodies.

Substituting a superordinate such as "this document" for the underlined phrase makes the sentence above read better.

(v) *Relationship*

Abortion is *when* a woman kills an unborn baby.

When students were writing definitions, they often failed to give the first component of the "standard" structure of a definition, namely, stating the general category. In the sentence above abortion cannot be "when". It could be a "what" that states a general class to which what is being talked about belongs.

(vi) *Collocation*

According to past laws, abortion was limited to only rare *issues.*

Because the topic is rules or laws, the words that would fit better in the sentence above are "exceptions", "circumstances", "conditions", etc.

7.7.2.1 (f) Parallelism

(i) *Co-ordinated ideas with a single coordinator*

Co-ordinated ideas are usually expressed with ***and, but*** and *or* and *nor* and the phrases that are co-ordinated should be parallel to one another. Students did not sometimes observe this rule as the following sentences show:

> The government should be moral, just and show sensitivity to gender issues.
>
> instead of
>
> The government should be moral, just and sensitive to gender issues.

(ii) *Co-ordinated ideas with double co-ordinators*

Lack of parallelism here resulted in the following error:

> Womanhood should not only be respected but we celebrate it in the femininity of a pregnancy as well.
>
> instead of
>
> Womanhood should not only be respected but it should also be celebrated in the femininity of a pregnancy as well.

(iii) *Compared or contrasted ideas*

The following error was made in this category:

> Many people like to prescribe what should be done more than offering solutions.
>
> instead of
>
> Many people like prescribing what should be done more than they like offering solutions.

7.7.2.2 Coherence

Coherence refers to the connection of thoughts and ideas not always obvious in the language of text, as pointed out above. Witte and Figley (1983: 18) say that if cohesion is often implicitly incorporated in writing curricula, coherence is often ignored. Students' coherence errors will be discussed from the viewpoint of the sentence and discourse. Table 13 below shows the details of coherence-related errors that were made.

Table 11: Students' coherence errors

Type of error	Number	Percentage
Incoherence between sentences	*61*	*30.8%*
Incoherence within a paragraph	*114*	*57.5%*
incorrect unity	18	
incorrect separation	13	
padding	32	
misleading topic sentence	3	
incongruous sentence	11	
incorrect information structure	37	
Incoherence between paragraphs	*23*	*11.6%*
incongruous paragraphs	18	
loose points	5	
Total	*198*	*100%*

Typical coherence-related errors are illustrated below.

7.7.2.2 (a) Coherence at sentence level

In the following erroneous sentences, the italicised sections do not cohere with those that have preceded them:

(i) According to African culture, the child is not to be aborted because that causes trouble in the tribe; hail, drought, terrible sicknesses, etc. may result *and the perpetrator is not allowed to move within the tribe.*

(ii) If you take an innocent, unborn baby who had done nothing wrong, its life is being terminated *because somebody was careless in conceiving it.*

(iii) Abortion itself does not guarantee *that you will have another baby.*

(iv) Much as women should be treated with dignity, *unborn babies should enjoy all basic human rights.*

(v) ... this woman wanted to do abortion *so it was against the morals of the Christian League that the woman wanted abortion.*

7.7.2.2 (b) Coherence at discourse level

At discourse level, the following errors occurred:

(i) *Incorrect unity*

> The question whether unborn babies should have constitutional rights or not is a question which has been debated from the past and present South African law. The question is based on the debate that at what time should an unborn baby be recognised as a person. Does a three week baby have a legal personality or not which legal status do unborn babies have.][In legal debate this is called the Nascitius question. There are pros and cons of recognising an unborn baby as a legal person. Unborn babies should be protected by the constitution but at the same time they not deprive women their rights.

The paragraph above is too overloaded; it discusses two subtopics instead of one. There should be a division at][.

(ii) *Incorrect separation*

> When the government passed this act they were intending on stopping the killing which can include death penalty and even abortion because it is killing.

So when you abort you are killing another human being. This unborn babies have to be saved.

Even the Bible which is the Holy book contains ten commandments and one of them is "Thou shall not kill". This shows that the people who abort are committing murder, which is not the unlawful and intentionally killing of another person. They are also committing the sin that God said we must not do.

If one begins a new paragraph, one's reader will expect one to introduce a new theme in the development of the argument of the essay. If one starts a new paragraph but continues with the same theme, one's reader can become confused, as the following paragraphs illustrate:

(iii) *Loose points*

The following loose points should have been merged into one paragraph.

One group is of the opinion that life begins when a child is born and it immediately acquires the status of being a legal subject.

The other group maintains that an unborn child is a legal subject provided it is born alive.

These arguments cause confusion as to whether an unborn child has constitutional rights.

From the religious point of view an unborn child is a human being. Its termination equals killing it. Therefore it should have constitutional rights.

(iv) *Wrong information structure*

In a certain case, it happened that there was a woman who was pregnant and this woman was involved in an accident. So been involved in accident the negligence was on the side of the driver of the car.

The woman delivered the baby so that baby was born deformed. It was held that if it was not because of the negligence of the driver that baby would not be suffering. That baby was having the right to the constitution.

The text above reads better if the rule that old information should precede new is effected, as in the following version:

A pregnant woman was once involved in car accident. The accident was caused by the driver of the car the woman collided with. As a result of the collision, the woman gave birth to a deformed baby. The baby, the court held, got deformed because of the man's negligence, which violated the baby's constitutional right.

(v) *Misleading topic sentence*

As far as religion is concerned, abortion is not allowed in totality. In the past there was the Abortion and Sterilization Act which was governing the abortion scenario. Abortion was only allowed or executed on justifiable grounds. For example only if a woman conceived through rape, incest or if pregnancy pose a serious danger to the life of the mother.

The topic sentence at the beginning of the sentence above introduces a total ban of abortion and the subsequent sentences are irrelevant to this thought.

(vi) *Incongruous sentence*

As soon as he/she becomes a living organism, he/she also deserves to live. When terminating a pregnancy, you terminate the life of a person and their will be infringed.

Abortion may sometimes be unlawful or lawful. According to our constitution, every person has got the right to life.

The italicized sentence does not belong in the paragraph above.

(vii) *Unsubstantiated claim*

I do support the constitution for the person who went for abortion if she is having a serious problem. For example, family matters and the one who is being raped because the problems may arise when that child is born. It can be painful for a woman when she remembers what had happened and decide to commit suicide with that child. And it is not good for a child to be born without a father.

The second sentence introduces two problems. The third expands the idea of one of the problems without indicating that it is doing so. The other problem is not explained at all.

(viii) *Padding*

In the Law of Persons any legal person has got the right to life. A foetus or an unborn baby has also got the right to life, for as long as it will be for the benefit of that unborn baby. *It is in the interest and the benefit of a foetus to live.*

The italicized text is the kind of unnecessary repetition that characterized many of the subjects' essays. It would often occur as long stretches of text.

(ix) *Vague expression*

Unborn babies can be aborted only if *certain requirements are met* and if the order for abortion has been given by the court.

Corrected version:

Unborn babies can be aborted only if the need for abortion meets certain requirements and if permission has been given by the court.

The passivised, italicized phrase wrongly assumes that the context of the sentence makes the agent obvious. Providing an agent, as in the corrected version, clarifies meaning.

(x) *Gobbledygook*

Many sections of what students wrote were completely incomprehensible as the example below shows:

> For the nascicitus rules to be introduced, the purpose or vital reason that they use is women might get miscarriage. I individually says that these reason is of less vital or can be regards as flat spare tyre; it is just a tip of the iceberg.

7.7.2.3 Gravity of error

Dulay, Burt and Krashen (1982: 189) mention two different effects that errors have on the reader: errors that affect the overall organization of the sentence hinder successful communication, while errors that affect a single element of the sentence usually do not hinder communication (cf. 7.7.3 iv; 7.7.3 v). Table 14 below shows the degree the gravity of the subjects' errors.

Table 12: The gravity of students' errors

Type of error	Number of errors	Percentage
All innocuous errors	327	65%
cohesion related innocuous errors	277	55%
coherence related innocuous errors	50	10%
All interpretation upsetting errors	176	35%
cohesion related interpretation upsetting errors	55	10.6%
coherence related interpretation upsetting erors	121	24%

Of the 504 errors that students made, the majority (66.2%) were cohesion-ralated. Of the latter, there was a low frequency of substitution and ellipsis errors. However, cohesion errors accounted for only 10.6% of the total number of errors that caused interpretation problems. In fact, most of cohesion errors do not distort meaning much; the reader can retrieve meaning from the context because discourse is inherently redundant. One can, for example, use the techniques in brackets below to salvage meaning:

(a) Form (changing the wrong form according to contextual evidence)

> Our constitution does not give *unborn baby* any right to life. That means they are no more regarded as humans.

"Baby" should be changed into "babies" to correspond with the next sentence.

(b) Addition (leave out a phrase according to contextual evidence)

> Although the past government was racist, but it protected the rights of the unborn babies.

Leaving out "although" or "but" makes the sentence above cohesive.

(c) Omission (add a cohesive phrase according to contextual evidence)

> If ever you kill a foetus, is regarded as a sin because is a living organism.

Each of the *is*'s should be preceded by a subject.

(d) Replacement (replace the wrong item with the right one according to contextual evidence)

> The suspect was found guilty and *jailed* to five years.

Jailed should be *sentenced.*

(e) Word order (reordering the word sequence in order to arrive at meaning)

> Not until the killing of babies stops, *adults should* speak of any basic human rights.

"Adult" and "should" need to swop places.

However, some cohesion-related errors can be difficult to correct, although such errors are proportionally fewer. In the sentence below one cannot tell what "it" refers to, for example: When the government passed this act, they were intending on stopping the killing which can include the death penalty and even abortion because <u>it</u> is killing.

Errors in lexical cohesion can also lead to confusion or misunderstanding. Law lecturers emphasised that one of the requirements of legal discourse was the ability to present a logical argument (see 7.2.2; 7.2.3). An argument cannot be logical if it lacks cohesion and coherence. Liu (2000: 30) notes that often lack of cohesion in students' writing does not result form an absence of connective words, but from a want of content lexical ties. This type of error point to students' lack of basic English, for one thing. For another, it points to the need to make the subject content-related so that the words students come across in their EAS input can be related to context and thus easier to acquire. The problem of transfer was discussed in 2.5.

More serious errors occurred in the coherence category. Of the 176 or 35% errors that obscure meaning, 24.4 % were of the coherence type as opposed to only 10.6% of the cohesion type. For examples of the former, see "vague expression" and "gobbledygook" in 7.7.2.2 above. It is often more difficult to correct coherence errors than it is to correct cohesion errors. Clues for correcting cohesion errors are usually retrievable from context whereas for correcting coherence errors one has to read the writer's mind, as it were. The illustration below demonstrates this difficulty:

> The opinion that an unborn child must have constitutional rights is in itself barbaric and is in contradiction with the fact that only legal subjects are human and therefore participate in legal discourse. In regarding such a fact, the unborn child is still forming in the mother's body and it is depending on her to survive.

The above text was an introduction of an essay. The first clause (The opinion ... barbaric ...) does not make sense until one stretches the meaning of the subsequent clauses and tries to relate them to the stated claim of the first clause. What the student probably meant to say in the first clause was something like "The opinion that an unborn child must have constitutional rights is erroneous." Moreover, the last sentence is illogical. Something like "Because of this fact, a foetus should not be regarded as a human being" would make it logical.

Hubbard (1989: 7) remarks that "The analysis of any set of errors is a complicated enterprise involving problematic choices at all stages, i. e. when identifying, classifying and explaining the errors, only the product (the error) is focused on; one cannot reflect the unobservable parts of the composing process." Nevertheless, error analysis can help improve students' writing. Used properly, it can raise students' sense of audience (see 9.8.10). Making the categories of the framework explicit indicates to the students what decoding problems the reader experiences where there are cohesion and coherence errors.

These results raise two implications. The first implication is that, although a sentence may be cohesive, if it does not cohere, it will fail to communicate. The opposite is also true: a sentence may not have cohesive devices but it can communicate adequately if it is coherent.

Secondly, the fact that coherence errors cause interpretation problems more than cohesion errors do, suggests that while not ignoring cohesion errors, focus should be put on the eradication of coherence-related errors. Dulay, Burt and Krashen (1982: 189) recommend that longer pieces of writing be marked with a more lenient attitude towards the occurrence of grammatical errors such as subject-verb agreement, incorrect use of articles, pronouns, and tense, and more attention be paid to aspects that affect the logical progression of thought. While this is a good guide to follow, then, concerns like the precision that Legal English demands and the target group's desire to acquire skills for them to be able to create and communicate meaning in an academically acceptable manner should be borne in mind. The target group's syllabuses, examination papers, and the questionnaires and interviews in this study indicate that students need to have good writing skills to pass their first year. The diagnostic essay test revealed that most of the first-year law students have problems with cohesion and coherence.

7.7.2.3 Grammar

Morrow (1981: 64) distinguishes between an error and a mistake. "Errors" refer to aberrations that indicate that the learner is in the process of internalizing and refining the system of linguistic rules, while "mistakes" indicate a mere slip of the tongue or pen. The idea that errors indicate the progression of the learner on the road to mastery of the target language is based upon a concept that Selinker (1972: 209-231) defines as "interlanguage". This term indicates the process by which the learner, in studying the target language, constructs his/her own system of rules which are fairly arbitrary and rough in the beginning, but which exhibit increasing systematicity. Because of continuous contact with the target language, especially in communicative activities, the system is gradually refined until it resembles the target system. This section of needs analysis addresses the target group's interlanguage. Table 14 below shows the types of errors that were made in the diagnostic essay test (see Appendix C), their numbers and percentages:

Table 13: Students' grammar errors

Type of error	*Number*	*%*	*Grave errors*	*%*
Tenses	128	21	0	0
S-v concord	89	15	0	0
Adjectives and adverbs	35	5	2	6
Prepositions	63	10	4	6
Articles and nouns	75	12	0	0
Passive voice	21	3	0	0
Gerunds and infinitives	57	9	3	5
Modals	29	4	2	7
Indirect speech	53	8	3	6
Comparison	42	7	3	7

Conditionals	36	6	3	8
Total	598	100	20	6

These categories are discussed one after another below.

7.7.2.4.1 Tenses

Comparing the 504 errors on cohesion and coherence with the 598 grammar errors, one notices that for about every cohesion/coherence error that occurs in the subjects' writing, there is a grammar-related one as well. Most of the latter are based on tense (21%). Students experienced problems in four areas: confusing tenses, switching tenses, irregular verbs, and complex tenses using auxiliaries. Typical errors are illustrated below.

(i) Confusing tenses

Firstly, students frequently confused the present perfect and simple past tenses:

1. The girl *has given* birth to a malformed child the following month.
2. They *knew* about the use of contraceptives since they were teens.

The confusion arises because of lack of understanding of the perfective and progressive aspects. The present perfective indicates, as Celce-Murcia and Larsen-Freeman (1983: 65) point out, an action or state that began in the past but is still true or has current relevance, whereas the simple past refers to an action or state completed in the past. The present and the past perfect have a similar meaning but the former suggests a period that continues up to the now, while the latter suggests a period that continues up to a point in the past. Murray and Johanson (1989b: 24-25) note while some adverbs and adverbial phrases can be used with the past tense and others only with the present perfect, some can be used with both as table 14 below shows:

Table 14: Some adverbial phrases of the present perfect and the past tense

The past It happened	*yesterday (evening).* *last night/last Monday.* *a week/month ago.* *in the morning.* *on Wednesday/in June/in 1974.* *at four o'clock.* *the other day.*
The present perfect It hasn't happened	*since Tuesday/last week.* *since I met you.* *so far/up to now.* *Lately.*
Either the past or the present perfect It happened It hasn't happened It *always /never* happened It has *always/never* happened	*today.* *this week./month/year.* *recently.*

In the errors above, "the following month" goes together with the simple past only and "since they were teens" goes together with the present perfect.

Secondly, students frequently used the present progressive (continuous) tense where they should use the simple present tense:

1. The baby *is having* the right to the constitution.
2. Statistics *are showing* that legalising abortion is increasing the number of street-abortion.

This kind of error may be largely attributable to the audio-lingual method, which is still being extensively used in black schools (see 2.2.2). Teachers tend to emphasise what they can demonstrate in mimes and role plays and thus overuse the progressive. Again, students often

forget that stative verbs like "have" in English describe states and are seldom in the progressive.

Thirdly, referring to a source caused many students tense problems as the example below shows:

> Section 12 of the constitution *made* provision for a woman to do as she wishes with her body. This provision *gave* the Minister of Health extraordinary powers to propose for the legalising of abortion. The defendant revoked this law when she was being tried.

Although the legislation referred to above was passed in the past and the context of the narration is in the past, the provision of this legislation should be expressed in the present tense because it is still applicable to the present. "Made" should, therefore, have been "make" and "gave" "give". In other words, the student should have been inconsistent in his/her use of tenses in order to be correct.

(ii) Switching from one tense to another unnecessarily:

(a) Switching tenses in mid-sentence

1. In the past it was unlawful to do abortion but in most cases young girls *die* because they *do* backstreet abortion when they realized that they were pregnant.
2. Those rights were suspended until the baby *is* born.

In sentence 1 "die" and "do" should be "died" and "did", respectively. In sentence 2 "is" should be "was".

(b) Switching tenses mid-paragraph

1. Our constitution now allows women to have their wombs destroyed. The Act is against the provision in Section 11 of the same constitution which give everyone the right to life. I remember one of the cases I came across in my studies, the one of Pinchin where the court had to decide whether the unborn child has any right to share his father's estate. The father *dies* when the child *is* still in his mother's womb. The court *holds* that child *has* every right because that *will* be for its own interest to have a share from his father's estates.

2. In the past South African government did not allow abortion to be done in hospitals. I think they knew what importance those children *will* have in the coming decades. It was not only the believe of whites that abortion *is* the destroyer of lifes, but also we blacks were very much concerned. Even if there *are* still some who operated those abortions behind closed doors, they were arrested for unlawful killing of another human being. People did not operate abortions in the past because they knew what the consequences *will* be.

In the first paragraph, "has" and "will" should be "had" and "would", respectively. In the second, "will", "is", "are", and "will" should be "was", "were" and "would", respectively. Although in Legal English one often has to mix tenses for effect (cf. 7.2.5), the simple rule that students need to obey is that if they begin a sentence of paragraph in the present, they must continue in the present; if they being in the past, they must continue in the past.

(iii) Irregular verb forms:

1. She *had came* to him only to ask for the money he promised he would give for maintenance of the child.
2. A lot of good morals *have been losed* since abortion became freely available.

In these errors the students forgot that although "come" is inflected into "came" in the simple past, in the past participle it takes the same form that it assumes in the simple present, i.e. "come". "Lose" becomes "lost" in its past and past participle form. Students tended to

overgeneralise the rule that all one needs to do to change a verb in the simple present tense into its past and past participle forms one just adds -ed at the end of that verb. This rule is, however, applicable to regular verbs only, not to irregular ones.

(iv) Tenses involving auxiliaries

Students sometimes had problems with tenses that involved modals. Some students inflected the main verb instead of the modal.

1. This *will results* in promiscuity.
2. Her husband wanted to know why she *did* not *asked* for his permission.

In the first error, the writer did not observe the rule that it is only when a verb is in the passive that the verb takes an inflected ending. In the second, the writer forgot that as "did" has already marked the second clause for past time, marking it for the same in "asked" creates redundancy.

Although none of the tense errors obscured meaning, their frequent occurrence is likely to be distracting.

7.7.2.4.2 Subject-verb concords

The second highest type of errors that students made (15%) involved subject-verb concords in the categories below:

(i) *Ordinary inconsistency*

As the following sentence shows, many students failed to observe the simple rule that a singular third person subject should have a singular verb in the present tense:

> *The law* which legalise abortion is unconstitutional. *This law* contravene section nine of our new constitution.

(ii) *Intervening information*

The most important guide to good subject-verb agreement is recognizing the true subject of a sentence. The words that may follow the subject and occur before the verbal phrase should not distract the writer. Students made the following errors:

1. *A law* about human rights were long overdue.
2. *A number of laws* has been passed on child abuse but none has been passed to protect unborn babies.
3 *Considerations* of what is best for the child, including its life before birth, is important in this debate.

(iii) *Singular words*

This question cannot be answered categorically because *each* hold a different position in relation to unborn babies.

"Each" in the above sentence refers to a singular subject, so "hold" should be "holds".

(iv) *Changeable words*

1. In the Apartheid era, *most* of the laws was oppressive and suppressive.
2. *Most* of the advice that a desperate pregnant woman gets are of little use.

Generally, one should ask oneself if the word refers to a mass or a plural count noun, when one is trying to decide if a changeable word is singular or plural. In the first error above, the noun "laws" is a countable plural, so "was" should be "were". In the second error, the word "advice" is a mass noun, so "are" should be "is".

(v) *Dummy subject*

There *is* many diverse arguments about abortion.

Perrin, *et al.* (1968: 74-75) write: "Where the subject is viewed as definitely countable and plural, one should use a plural auxiliary *are*; where one is talking about a subject that looks plural on the surface but is perceived as one whole then one may use a singular subject".

(vi) *Blind agreement*

This is one of those laws *that causes* moral degradation.

"That" stands for laws and is plural, so "causes" should be "cause".

(vii) *Inverted word order*

Throughout history *appears* now and then thinly disguised *barbaric streaks* of the so-called progressive societies.

When word order is inverted, one needs to be careful and make the verb agree with its subject and not with some other words.

(viii) *Verb and complement*

1. Our main problem *are* the unethical practices that are so prevalent these days.
2. All the law that have been passed by the present government *is* the source of our woes.

The verbs should agree with their subjects and not with their complements.

7.7.2.4.3 Adjectives and adverbs

As the errors below show, some students had problems differentiating adjectives from adverbs:

1. If the mother is pregnant, very *advance*, and she gets involved in a car crash and the baby's is damaged *bad*, she can sue.

2. It is *gross* unfair to kill an unborn child.
3. While urban dwellers are tolerant, rural people reject the notion of abortion *outrightly.*
4. If a pregnant girl 's father is *late* and the mother is unemployed she may give up the baby for adoption.

The first error shows that adverbs are often morphologically more complex than adjectives; they have suffixes like -ly and -ed so they are probably more difficult to learn. That is, perhaps, the reason why errors like the ones above were made. In the second sentence, since the adjective "unfair" is qualified by an adverb, "gross", the latter requires a suffix -ly, which the writer did - again - not use. In the third sentence the writer was not aware of rule restriction: although an adjective is usually converted into an adverb by adding -ly at the end of the latter, with words like "outright" this rule does not apply. In the last sentence, "late" cannot function predicatively; it is one of those adjectives that can only function attributively. Again the student has overgeneralised the rule that an adjective can be used both attributively and predicatively.

Failure to differentiate between an adjective and an adverb does not often lead to distortion of meaning except in cases of words like "late", which is always adjectival where it means "dead" and does not convey the same meaning where it is used predicatively. Adjectives and adverbs are the third smallest type of mistakes that were made (5%), but the distortion of meaning (6%) they cause calls for an inclusion of this part of speech in a grammar course.

7.7.2.4.4 Prepositions and phrasal verbs

(a) Prepositions

The use of the wrong preposition or failure to use one was a frequent error:

1. Abortion should only be performed when it endangers the women's life or when there is some abnormalities with the pregnancy. *By* this way the right of the unborn babies will be protected.
2. Selfish people only think *for* themselves.

3. The Act itself is contrary *with* the constitution.

4. Her letter had not been replied.

According to Celce-Murcia and Larsen-Freeman (1983: 250), prepositions and articles are the most notorious grammar areas that present problems to English L2 learners. The wrong use of prepositions accounted for 12 % of the errors that were made. This part of speech tends to be difficult to many students. In the two preposition-related questions (question 13 & 21) of the comprehension test (see 7.7.1), only 7% of the students got both these questions right.

Prepositions are culturally determined and their meanings vary. The preposition "in", for example, often denotes a place and so one talks of "in a marriage" and not "on a marriage" as if the referent is an enclosure. This worldview is culturally bound (see 4.6). Certain verbs, nouns and adjectives are followed or preceded by a particular preposition as fixed patterns, e.g. "charged with", "accused/suspected of", "arrested on a charge of", "sentenced to", "claim damages from somebody", "be parties in a contract", etc. It is often difficult for learners to remember all these patterns. However, students can use their dictionaries to find out which preposition they should use.

(b) Phrasal verbs

Phrasal verbs also presented many problems. The main reason for this is that sometimes phrasal verbs or verb + preposition combinations have special meanings of their own. These meanings are often unrelated to the meaning of the word or the preposition on its own. As a result, they are often very bewildering to many second language users, as the errors below show:

1. If an unmarried, pregnant mother who cannot *cope up* financially discovers that she pregnant for the umpteenth time she should be allowed to abort the pregnancy.
2. The problem that women *come by* are by far more than those that men experience.
3. He seemed to be deformed, by he later *turned* to be alright.

6% of meaning was irretrievably lost in the preposition-related errors that the students made. The serious distortion of meaning that may result from the wrong use of prepositions, which was discussed in 4.6, should also be taken seriously. Again, using a dictionary is advised here.

7.7.2.4.5 Articles and nouns

The words that co-occurred with articles, especially nouns, often cause confusion to many students:

(i) Confusing uncountable with countable nouns

Some nouns are countable in Setswana and uncountable in English and vice versa. This mismatch often results in students' making errors such as the following:

1. This is *an equipment* that a hospital cannot do without.
2. She needs *an advice.*

Words like "equipment" and "advice" are uncountable in English but in Setswana they are countable, e.g. *sediriswa* (singular) *didiriswa* (plural), *kgakololo* (singular) *dikgakololo* (plural), respectively. So Setswana learners of English, like the target group, usually confuse such words. Uncountable nouns are seldom used with "a"/"an" in English. It in only is special cases where uncountable nouns do go together with an indefinite article but here they suggest a different nuance: *A knowledge of science and technology is very important nowadays.* "A knowledge" in the preceding example indicates that the referent is one "area of knowledge" out of many. "Understanding" and "appreciation" also function in this way. Complications occur, however, in Legal English where a normally uncountable noun becomes countable. One example of this is the word "damages", which means a sum of money claimed or awarded in compensation for a loss or an injury.

(ii) *A few* and *a little* confused with *very few* and *very little*

1. If she is really about to die, a doctor can do *a little* for him.

2. In a happy home, there are *a few* serious quarrels
3. The child had made *very little* some progress in his studies so the parents were happy with him.
4. He was a prim person who thought he had *a few* things to be ashamed of.

In 1 above, "a little" indicates something positive, which is incongruous with the preceding negative condition. In 2, "a few" is also positive because it means "not many" and so does not go together with the preceding positive statement. In 3, "very little" is negative and therefore incoherent with the subordinate positive statement. In 4, "a few" suggests a positive quantity and does not go together with the critical preceding statement. The meaning that students missed in the errors above is that "very little" and "very few" are negative not because of the presence of "very", but because of the absence of "a". In the comprehension test, 60% of the subjects got the article-related question wrong.

(iii) General nouns confused with specific nouns and vice versa

1. I think *the world hunger* can be solved in several ways.
2. It is easy for *the whites* to get abortion.
3. Before AIDS can be eliminated, number of infected persons should be known.
4. *Recent survey* showed that KwaZulu-Natal has the highest infected people.
5. *Babies* that are given up for adoption, may show behavioural problems later.
6. *Pain* women feel at giving birth is said to be worse than any other.

Errors in 1 and 2 indicate that the students did not apply the rule that uncountable nouns like "hunger" and plural countables like "whites" can be used without an article when the nouns are used in a general sense or to a class of things/people. In 3, although the head noun "women" is plural, one needs to qualify the singular preceding noun, "number", with *a*. "Recent survey" in 4 has not been specified so it needs to be preceded by "a". "Babies" and "pain" 5 and 6 are plural count and uncountable but since they have been specified, they need to be preceded by "the".

(iv) Definite nouns confused with indefinite nouns and vice versa

1. A person can have rights, duties, obligations and duties but not *the* unborn baby.
2. Unborn babies had rights in our past laws as they were considered as legal persons having *the* legal capacity.

We use the definite article "the" for things which have already been identified; they are already known to both the writer and the reader or speaker and hearer. We use the indefinite article ("a" or "an") for something which has not yet been identified. It can have the same meaning as "any" or "one of many". Usually when something undefined is referred to for the first time, the indefinite article is used. Thereafter, since identity has been established the definite article is used. So the first definite article should be substituted by "an" because the referent has not been identified and in the second it one should be eliminated for the same reason and because it is uncountable.

There are some idiomatic expressions in which a singular countable noun is used without an article, for example, "go to school", "in prison", "travel by bus" and so on. "For example" is an expression of this kind, which students frequently use incorrectly:

1. If the father of a child has been killed as a result o the negligence of the third party, then the child after being born can institute an action against at the third party. *For an example* in the case of Chisholm v. East Rand Property Mines it was held the child was entitled to claim damages.

2 The right of unborn babies are protected in the present South African. An expected mother, *for an example*, is given free medical treatment during her visits to the clinic before labour.

Although the incorrect use of articles was the second highest error, only minor confusion occurs with the errors of this type. For instance, when something defined is treated as though it were undefined and vice versa as in the preceding examples, one can redeem meaning from context. But sometimes serious, coherence errors may occur (cf. 7.7.3.iv.c). It has been

pointed out how important precision is in Legal English, so the mastery of "small" concepts like articles, which did not lead to any obscuring of meaning in the students' essays here, may deserve serious attention.

7.7.2.4.6 The passive voice

The target group had problems with both the structure and stylistic variations of the passive:

1. According to our preamble of our constitution, it is very clear that our constitution is *base* on noble values.
2. In conclusion, I *will recommend* that The Termination of Pregnancy Act be rescinded.
3. If a person has been robbed *by muggers,* they have recourse to justice.

The first error is structure related: the verb, "base", in the second clause should be in the past tense. Perhaps the student wrongly assumed that because it is preceded by the present tense auxiliary "is", this verb should also be in the present tense.

In the second error the student's tone is not academic. As was mentioned above (4.3. viii), in academic writing the writer often makes a statement sound objective by not revealing the source of information and uses phrases such as "it would seem ...", "it is assumed/believed ..." So it will be more appropriate if the phrase in italics here were is changed into "it would be recommended".

The third error is an example of mentioning an agent (by muggers) where it is unnecessary to do so. Celce-Murcia and Larsen-Freeman (1983: 225) point out that the majority of passive sentences that occur in speech and writing (around 85%) do not have an explicit agent. They then suggest that teacher teach their ESL students why and when to retain the agent in those approximately 15% of passive sentences that have explicit agents - rather than trying to give them rules for omitting the agent in those 85% of passives that are agentless because doing so will require less effort. They conclude that almost all these agents could be explained by one of the following generalizations:

1. The agent is a proper name designating an artist, inventor, discoverer, innovator, etc., who is too important to omit in the context, e.g.: The Mona Lisa was painted by *da Vinci.*
2. The agent is an indefinite noun phrase, i.e., new information, and is retained to provide the listener or reader with the new information, e.g.: While Jill was walking down the street, her purse was snatched by *a young man.*
3. The agent is an inanimate noun phrase which is retained because it is unexpected; i.e., we expect agents to be animate, and almost omitted agents get reconstructed as animate nouns, e.g.: All the lights and appliances in the Albertson household are switched on and off daily by *this/an electrical device.*

The passive is used frequently, both in spoken and written Legal English. But there is a preponderance of it in the latter (cf. 4.3 iii). Students, therefore, need to know it well. If they do not, they will be at a disadvantage; they will not be able, for example, to exercise the ideological choices available in the use of these constructions or appreciate them when they are being used (see 4.3 viii). So although errors in use of this part of speech were the fewest (3%), and none of them upset meaning, it cannot be assumed that its importance is minor.

7.7.2.4.7 The gerund and infinitive

Some of the errors in this category were the following:

1. He denied the accusation and said he had stopped *to beat* her a long time ago.
2. They prevented her *to abort* the baby.
3. They found the abandoned baby *lay* on the ground.
4. Poverty makes many women *to do* what they would not do if things were different.
5. They *use* to go shopping on Saturday.

One of the reasons why the subjects have problems with gerunds and infinitives is that Setswana, the subjects' L1, does not distinguish between a state and an action verb. As a result, interference often occurs. These students may miss noticing the difference in meaning between "having a baby" and "to have a baby". The infinitive, according to Celce-Murcia and Larsen-Freeman (1983: 434), often expresses something hypothetical, future, and unfulfilled whereas, the gerund typically expresses something real, vivid, fulfilled. This

principle explains why a verb like "want" takes only the infinitive (i.e. it explains a future, unfulfilled event) I *want* to go there. *I *want* going there. This also explains why a verb like "enjoy" takes only the gerund i.e. one can only "enjoy" things one has already experienced:

"I *enjoy* swimming." "I enjoy to swim"*.

In the first sentence above, "stopped" fulfils the action and so "to beat" should have been "beating". In the second sentence too, since "prevented" expresses a fulfilled action, "to abort" should have been "from aborting". "Found" and "lie" in sentence three describe a real situation; so one cannot use "lay" in the place of "lying". In the fourth sentence a passive is confused with an active structure: while it is correct to say "made to do x" it is not so to say "make to do y". Students often use "use to" or "used to" where "usually" should be used and sentence five is a good example of such an error.

The errors related to gerunds and infinitives were fairly high (9%). And 5% distortion of meaning that went with them suggests the importance of teaching and learning these concepts.

7.7.2.4.8 Modals

A range of modal-related errors were made, as the items below show.

(i) Failure to use modals

Students tended to use finite verbs where a modal was supposed to be used to give a tentative tone:

1. As *Macbeth* shows, ambition *is* evil.
2. Alleviation of poverty *improves* the condition of AIDS suffers.

"Is" and "improves" are too sweeping in the sentences above; they need to be qualified by modals. The use of a verb only where a modal and a verb is more suitable often changes the truth value of a statement. Sentence 1 ignores the fact that it is not all forms of ambition that

is evil and sentence 2 accords alleviation of poverty inordinately great powers. The substitution of "is" with "can be" in the first sentence inclusion of "may", "could"/"might" would be more fitting in these sentences. Since academe is normally premised on relativism and tends, because of this, to eschew the use of absolutes, one needs to master devices like modals and use them for this purpose.

(ii) Inappropriate use of the modal "can"

(a) L1 induced "can"

1. *I can say* that the new law will empower women a great deal.
2. When a person can place a snake in front of a baby, he will play with it.

In the first error above students used a phrase which is not idiomatic, possibly as a result of direct translation from the mother tongue: Setswana *Nkare* ... A phrase like "I think/It seems ..." would be appropriate here. In the second error, the student seems to be using "can" to indicate that he/she is talking about a hypothetical situation in the preceding errors. The simple present is used for this purpose (see 7.7.3.10). *Ga a ka* (If /When one can) appears to have been translated from Setswana.

(b) Redundancy in "can" and "able to"

'Can' and 'be able to' was often confused as the following example shows:

1. The youth must have information to *can be able to* predict danger.
2. Capacity building *can be able to* improve the poor's condition.

"Can" and "be able to" have basically the same meaning, but whereas "can" is a modal verb, "be able to" is, in the words of Celce-Murcia and Larsen-Freeman (1983: 82-83), "a periphrastic modal". For this reason then one must use either a modal or its periphrastic equivalent and not both in the same simple sentence otherwise redundancy occurs.

(iii) Incorrect use the past tense and modals

Many students had problems with the use of the past time and modality:

1. They *can have warned* her first.
2. We *should have study* a lot for that class last term.

The complexity of this construction is probably the reason why many students did not get it right. The use of "would"/ "should", "could + have ...en" is an integral part of unreal conditionals (see 7.7.3.10) and is important to know well.

(iv) Incorrect use of the scale of certainty

As indicated by the errors below, the scale of one's authority in which the modals are used was often not known well:

1. Unborn babies should have a constitutional right, that is a right to grow in their mothers' womb. However, this right *must* be of benefit to their future after birth. This *must* be stated in the constitution.
2. Children *must* be made to work before a certain age.

The following shows the degree of necessity that modals carry on a scale of about 20-100%:

will	100%
must	80%
had better	60%
should	40%
might	20%

(Celce-Murcia & Larsen-Freeman, 1983: 87)

In the light of this scale, "must" is too strong in 1 and 2 above; "should" would have been a better word here.

(v) Incorrect use of the scale of probability

As with their understanding of the scale of necessity, the logical probability uses of modals were often inaccurate too. Students tended to use "will" in the places of "could"/"might", (possibly) "may", (quite possibly, perhaps) "should" (probably) as the following errors show:

1. He was not sure if she *must* have been cheating on him.
2. A vaccine for AIDS *will* be found in the near future.

"Must" and "will" above evoke more certainty than the writer meant to convey. The scale of probability below suggests that "may", "could"/"might" would fit better in these sentences:

will (rare)	100%
must	80%
should	60%
may	40%
could/might	20%

(Celce-Murcia & Larsen-Freeman, 1983: 89)

All in all, modals are also used extensively in legal discourse. "May", "shall" and "must" can, for instance, distinguish between what is obligatory and what is left to a person's discretion (cf. 4.2. x).

Although modal-related errors accounted for the second lowest number of errors (4%), it is important for advanced students like the target group to master their use. Modality can denote many subtle semantic shades and, again, because precision is important in Legal English, learners should know these meanings. The 7% of lost meaning in the errors that occurred in students' essays was related to these nuances.

7.7.2.4.9 Indirect speech

The three problem areas in the students' use of indirect speech involved backshifting, wh-indirect questions, and reporting words.

(i) Backshifting

Most of the difficulty in indirect speech-related errors lay in the tense harmony or backshifting, i.e. pushing back the tense of the reported speech clause so that it agrees with the tense of the reporting verb and in word order where a wh-question was involved providing summarizing words:

1. She complained that her parents *have* been very unfair to her.
2. They wanted to know why *has* he been passed over and a junior person promoted instead.

Backshifting may be particularly important in Legal English. One may, for instance, use it to indicate that one is detached or impartial i.e. that one is not trying to make a judgement as to the truth values of the reported statement. One possible cause of the difficulty of applying tense harmony is that when using the indirectly speech, one has to apply many operations such as the use of the complementizer *that*; changes in pronominal forms, in the verb tense, in demonstratives, and in adverbials of time and place and in word order (where there are indirect question, exclamations imperatives) and effect deletions, and additions (e.g. reporting words). Another problem with the use of backshifting is, as Celce-Murcia and Larsen-Freeman (1983: 459) point out, that native speakers do not consistently observe this rule in their use of indirect speech. The third reason is that in some cases backshifting is not done because it might distort meaning as in the following instances:

(a) In indirectly reported utterances expressing general truths (and often containing stative verbs) verbs do not have to be shifted to the past even when the reporting verb is in the past:

Columbus *said* that the earth *is* round.

(b) In utterances where what is talked about is foregrounded to the present backshifting is not done:

I *told* them that my name *is* Sipho.

(c) In unreal present and past conditional clauses when they are indirectly reported because present conditionals would then be the same as past conditionals:

1. Ed: If I had the will, I would find a way.
   (Ed said that if he had the will, he would find a way.)
2. Ed: If I had the will, I would have found a way.
   (Ed said that if he had the will, he would have found a way.)

(d) In some past tense structure, when shifting from past to past perfect, a change of meaning might occur if a perfective marker is added. Because of this, a shift is often avoided:

1. Pam: I wanted to go to Albany to visit friends last weekend.
2. Pam said that she wanted to go to Albany to visit friends last weekend. (i.e., It's possible that she wanted to go and that subsequently she did go.)

In saying *Pam said that she had wanted to go to Albany to visit friends last weekend* (i.e., with the past perfect tense in the report clause), the implication is very strong that she did not go - i.e. she wanted to go, but she didn't.

(ii) Wh-indirect questions

Suppression of the inversion rule in indirectly reported yes-no questions does not seem to present much difficulty in the target group's writing. Students did not produce errors like the following (perhaps because of the presence of "if"): *I asked if was Bongi going. However, with wh-questions, problems emerged. In this structure there is no special complementizer to signal indirect reported or embedded wh-question and the subject/auxiliary inversion is suppressed. Some students did not observe this rule and the following errors were observed:

1. When they were asked what job did they do they said there were no jobs for them.
2. The officer enquired what he could do to help her and she said there was nothing he could do.

Usually, colloquial use of English does not observe the subject/auxiliary suppression rule of the embedded wh- question. Perhaps that is the reason why students often make the errors like the above.

(iii) Reporting words

The students tended to used the word "said" even where this term was not precise:

1. I *said* she could stop by and for some coffee and dessert that night.
2. She said her husband *said* to her she should abort the pregnancy.

Changing words to suit context, one could substitute "said" with "invited" in 1 and the second "said" with "ordered" in 2. Students often need to have a good vocabulary from which they can choose words to summarize texts (e.g. complained, explained, argued, etc.).

Law involves a great deal of reporting so the importance of this skill is self-evident. Also, the indirect speech is linked to other areas of grammar like tenses and conditionals, and to vocabulary. The results indicate that a great number of students have not yet learnt reporting well (8%). Loss of meaning was 6% and suggests that the teaching of the indirect speech deserves attention.

7.7.2.4.10 <u>Comparison and the superlative</u>

The purpose of comparing or contrasting is to understand each of the things that are being discussed more clearly and, at times, to make a judgement about them. The errors under comparison that students made are categorised as follows:

(i) Omission of "more" or "-er"

1. This is *noticeable* in the white population than in the black.
2. Domestic violence *is being reported* now than before.

(ii) Use of the comparative when there is no comparison involved

1. The provision of sex education can be of *more* help in assisting the youth to prevent unwanted pregnancies.
2. Higher statistics have been recorded of wives who have been battered.

(iii) Use of both "more" and "-er" in the same construction

1. The cost of living has become *more higher* than it was before.
2. The more better living conditions of poor people's lives has still to be seen.

(iv) "More" and "most" confused

1. Killing is the crime *more* frowned upon offence in the black community.
2. Her athleticism was *more* outstanding quality she had.

(v) Failure to use the "as ... as" construction

1. Malnutrition can have a detrimental effect on children's learning because they cannot learn well *than* when they are properly fed.
2. The youth are adventurous as before in sex matters.

(vi) Deletion of the "those of " constructions

1. The financial resources of modern women are greater than old women.
2 These days wages of miners are higher than the past miners.

(vii) Deletion of "that which ... " construction

1. A child which is raised at home is often better behaved than in an orphanage.
2. In serial killing a murder that has been committed before is the same as later.

(viii) "Too much" and "very" confused

1. Teenagers like fun too much.
2. Her in-laws testified that her husband loved her too much.

(ix) Confusing "less" and "fewer"

1. Crime has never been *fewer* than before; only that reporting has now increased.
2. One woman had *less* mouths to feed than the other.

(x) Confusing "like" and "as"

1. *Like* I have already said, this is untrue.
2. I felt *as* I was in a dream.

One of the most basic and powerful of human cognitive processes is the ability to comprehend and express the fact that there is some similarity or difference between two things. Usually such a similarity or difference is expressed in terms of degree, extent, quantity, etc. In academe, comparing and contrasting is one of the major abilities that a student needs to acquire. It is often difficult to be critical and to structure a convincing argument if a student lacks this skill. In law, one often compares and contrasts things before one makes a judgement and for students to be able to be critical they need to have good comparing skills (see 7.6.5 & 7.6.6). The problem with the use of comparison is that sometimes the comparing structure of learner's L1 is, as is the case with the subjects, different form that of the target language and this causes interference. Of the 42 comparative- and superlative-related errors that were made, only 25% of them may be explained in terms of negative transfer or interference (the first two types of errors below). This bears out Dulay, Burt and Krashen's (1982: 96) observation that the majority of grammatical errors that ESL students make cannot be ascribed to the interference of the first language. Learners make mistakes in spite of similar structures in their first language; in other words, positive transfer does not always take place if there are structural parallels between L1 and L2. So the majority of the mistakes that these students make are attributable to hypothesis testing, i.e.

incorrect application of rules. In the target group's essays, 75% of the comparison-related errors can be regarded as developmental.

Furthermore, the comparative is structurally complex because it involves two clauses, the second of which has been greatly reduced, e.g. This car is bigger than *mine* (my car is). 7% is the second highest figure in table 11 on the scale of gravity of error and suggests the importance of teaching this part of speech.

7.7.2.4.11 Conditionals

Celce-Murcia and Larsen-Freeman (1983: 340) point out that conditional sentences consist of two clauses and are therefore more complex syntactically than many other structures. Moreover, the semantics of all the various types of conditional clauses are subtle and hard to understand even for native speakers. Most of the students who used the generic factual conditional had very few problems with the use of the timeless generic factual conditional, which expresses unchanging truth values and therefore normally takes a simple present tense in both clauses.

1. If you commit abortion, you are guilty of manslaughter.
2. Back-street abortions is reduced if abortion is legalised.
3. A pregnancy was terminated, only if it was due to rape, incest or some health reason.

The only aberrant structures that emerged here are those that involved incorrect use of a connector:

> The situation we are in nowadays is not acceptable, even if there are those who still want abortion to be legalised.

"Even if " should be substituted with "even though" or "although" in the above error.

Habitual factual conditionals did not present difficulty, as the examples below show:

1. If you abort a foetus, many people regard you as a sinner.
2. During the Apartheid era if any woman aborted, she was arrested.

The type of conditionals that occurred more than any other is the future (predictive) conditionals. Students did not have much difficulty with the structure of the future predictive conditionals, except where students tended to overgeneralise "will"/ "would":

1. If you *will* hear of such a crime again, you will be shocked.
2. She promised she would not do it again if she *would* fall pregnant again.

Mistakes like the above sentences made up about 2% of the 36 conditional-related errors committed. The errors that were fairly frequent, accounting for 9%, are those that involved the use of the prediction scale that was outlined for modals (7.7.3. vii):

1. If the law does not regard unborn babies as having the rights, the law *will* allow abortion to be carried out.
2. If abortion is outlawed, there *will* be more street-abortions.

The sentences above are erroneous because the modal "will" in them is too strong. "May" or "might", "likely", or "mostly likely" would be more fitting.

The majority of students' errors (89%) was in their use of imaginative conditionals and the 8% loss of meaning (the highest score) that occurred in the students' use of conditional occurred in this type. Celce-Murcia and Larsen-Freeman (1983: 343-344) say that the imaginative conditional sentences are perhaps the most problematic of the three main types of conditionals. There are two sub-types of imaginative conditionals, i.e. hypothetical and counterfactuals. The following are example errors that were made in this category:

1. If abortion were outlawed, many women would have been outraged.
2. In this case if the court could have been applied the general rule, the child could have not inherit the estate.

3. It was held that if it was not because of the negligence of the driver, the baby would not be suffering.
4. It has not been proved that a right thinking woman have used abortion as a form of contraceptive, if abortion were more freely available.
5. If the unborn baby's constitutional right to life were upheld, the mother's right to choose are violated.

The errors above indicate that the problem with imaginative conditionals arises in the tenses used. Correctly used, the past tense refers to the present time and the past perfect tense refers to past time. Furthermore, we have a vestige of the Old English subjunctive mood in the use of "were" with singular first and third person subjects where "was" is the expected form as in the correctly written clause 1 above. As mentioned in 4.3, conditionals are very important in Legal English because they express the dependence of one set of circumstances (i.e. the result-clause) on another (i.e. the if-clause), thus often indicating under what circumstances a particular rule or law applies; when one has rights, obligations and duties.

Conditional sentences and the other notions, then, should be taught overtly. Grammaticization, as was indicated in 3.5.6, is important at the advanced level of English studies where one should not be confined to the concrete but should be able to create situations that are dislocated in time and space by means of grammaticization. Students need to be creative and critical, looking at things from more than one angle and showing how things are not always what they seem to be.

All in all, although only 6% of the errors made are those that distorted meaning, one should consider the two facts: error analysis does not reflect the mental processes that the writer goes through, and there are many grave errors that may have been avoided, which error analysis does not reflect. Moreover, because the researcher is an L2 speaker of English like the subjects are and his first language is a cognate of the subject's L1, and he has been teaching ESL for seventeen years, many errors that do not appear grave to him may be very serious to another reader who does not have this background. In short, the errors above suggest that for the target group of this study to attain language proficiency, it needs to acquire both linguistic and communicative competence (see 5.6.2.4).

7.8 Survey of the state of practical English programmes in South African universities

Of the twenty South African universities which were sent questionnaires (see Appendix G) to survey their practical English courses, sixteen (80%) returned them. The survey yielded the following information:

7.8.1 Main aim of the course

The principal aim of practical English courses in the surveyed universities can be said to be two-fold: firstly, the course sought to equip students with academic literacy; teaching them skills like reading, writing, initiation into the conceptual framework (jargon and discourse) of mainstream subjects, note-taking, using a library, and using a computer). It was hoped that these skills would improve students' pass rates. Secondly, the course sought to prepare students for language demands that would be made on them later in life.

Subsidiary aims were closely linked to the major aim. Universities were asked to indicate with numbers 1 (least), 2, 3, 4, and 5 (most) the time the course as a whole devoted to six subsidiary aims, i.e. the four major language skills, grammar and subject-related content (see Appendix G, Question 13). Table 15 below shows the results obtained.

Table 15: The four subsidiary aims of the course

Subsidiary aim	*Average*
to develop students' listening skills/understanding	2.5
to develop students' speaking skills	3
to develop students' reading skills	3.8
to develop students' writing skills	4.3
to teach students grammar	2.9
to teach students the discourse of their mainstream subjects	2.9

As in the first-years' (cf. 7.4.6) and the senior students' (cf. 7.5.6) questionnaires, writing was rated as the most important subsidiary aim with a 4.3. Reading was the second highest score with 3.8. Reading was also ranked highly by the first-years (cf. 7.4.6) and the senior law students (cf. 7.5.6). The middle-of-the-road aims were speaking (3), grammar, and subject-related input (2.9).

The average rating of the speaking skills contrasts with first-years' (cf. 7.4.6) and senior law students' (cf. 7.5.6) view that speaking is the most important skill and indicated that what lecturers regard as very important is often not so with students. The skill that was rated as the least important was listening, and this low rating correlates with the lowest ranking that senior law students gave to this skill (cf. 7.5.6).

7.8.2 Students' major deficiencies

Universities were asked to indicate two major deficiencies that their students were experiencing and Table 16 below shows the responses that were received:

Table 16: The deficiencies first-years have

Problem	*Percentage*
Listening/understanding	6%
Speaking	17%
Reading	50%
Writing	83%
Grammar	17%
Conceptual problems	28%

As mentioned in 2.7.3 and 2.7.4, reading and writing are difficult to acquire because they are context-reduced and thus cognitively more demanding than context-embedded skills such as speaking and listening. The first two highest scores above, (50% & 80%), suggest the relative difficulty of reading and writing. Students, however, usually overestimate their

competency in these skills. In 7.4.8, for example, the target-group of this study said that their reading and writing skills were good. In contrast to this, while in 7.4.8 the subjects of this research considered speaking their serious deficiency, it is rated as a minor problem in Table 16 above (17%). Furthermore, whereas law lecturers regarded grammar as important (cf. 7.5.2.6), Table 16 does not reflect this view. The only correlation between lecturers and students was with regard to the listening skill, which was seen by both as posing not much difficulty.

7.8.3 Nature of the course and clientele

The nature of the course and clientele were fairly varied, as Table 17 below shows.

Table 17: The characteristics of the practical English course at South African universities

University	*Nature*	*Duration*	*Location*	*Options*	*L1 or L2*	*Credit*
A	Gen.& ESP	1 year	Dept.	Voluntary	L1 & L2	Yes
B	Gen.	1 semester	Dept.	Obligatory	L1& L2	Yes
C	ESP	1 year	Dept.	Obligatory	L2	Yes
D	Gen. & ESP	1 year	Dept.	Voluntary	L2	Yes
E	Gen.	1 year	Dept.	Voluntary	L1 & L2	Yes
F	Gen. & ESP	1 year	Dept.	Obligatory	L2	Yes
G	ESP	3 years	Dept.	Obligatory	L2	Yes
H	Gen.	1 year	Dept.	Voluntary	L2	Yes
I	Gen.	1 year	Dept.	Voluntary	L1 & L2	Yes
J	Gen.	1 year	Dept.	Obligatory	L1 & L2	Yes
K	Gen. & ESP	1 year	Dept. & ADC	Both	L1 & L2	Yes
L	ESP	1 semester	Dept.	Voluntary	L2	Yes

M	Gen. & ESP	1 semester	Dept. & ADC	Both	L1 & L2	Yes
N	Gen.	1 year	Dept.	Obligatory	L1 & L2	Yes
O	Gen. & ESP	1 year	Dept.	Obligatory	L1 & L2	Yes
P	Gen.	1 year	Dept.	Obligatory	L2	Yes

50% of the universities surveyed offered a subject-related practical English or ESP course for their first-years. The duration of the course in 75% of the cases is one year. While the course was compulsory for first-year ESL students, 56% of the universities offered it to both L1 and L2 students. Most of the L1 students took it either because they wanted to study it as an academic subject (cf. 3.5.6) or their low grades in Matric/competency test compelled them to take it. Such students, however, were in the minority, constituting only 0.7-1.6%. The course was credit bearing in all the universities surveyed. In the majority of the universities (89%), the course was located in a department, often the English department; only in 13% cases was it located in both a department and an Academic Development Centre (ADC). 31% of the courses contained one general English module and 3-4 other modules that were subject-related. The course was credit-bearing in all universities.

7.8.4 Degree of linkage to mainstream courses

Attempts to meet students' needs have resulted in varying links between practical English courses and mainstream subjects. Table 18 below shows these differences.

Table 18: Level to which practical English has been made ESP in South African Universities

University	*Level of subject-linkage*
Historically English speaking	80%
Historically disadvantaged	65%
Historically Afrikaans-speaking	50%

In 80% of the historically English universities, where the tradition of academic support/development was well established, much of the language intervention courses were integrated into the mainstream subjects and the people who taught these were subject specialists, who attended 4-6 workshops yearly on how to meet their students' language needs. Only one historically disadvantaged university had practical English integrated with a mainstream course. 65% of practical English courses on historically disadvantaged campuses are typical ESP. In these courses all the lecturers courses were English specialists rather than subject specialists. The lecturers collaborated with mainstream lecturers and based their materials on mainstream curricula. In other words, their courses were adjuncts. Of the historically Afrikaans speaking universities, 50% of practical English courses were subject-linked. On average, 65% of South African universities had linked their practical English course to mainstream subjects. This practice is in line with the curricular restructuring that the national education policy demands (cf. 7.4.2).

7.8.5 Content of the course

Listening was taught directly in 44% of the universities surveyed. Only 18% of them taught the speaking skill directly. 33% taught pronunciation overtly. Except in one university, the norm in the overt teaching of pronunciation was the acquisition of intelligible L2 speech (cf. 3.5.3.1 i). The exceptional university aimed at the acquisition of Received Pronunciation. The high number of the universities which are using intelligible L2 speech as a norm suggests that the high reputation that received pronunciation used to enjoy is diminishing. This trend is not only observable at the national level but at the international level as well. Crystal (2000: 7) puts it thus: "there is no getting away from the fact that, these days, regional national varieties of English are increasingly being used with prestige on the internationl scene ...."

The universities were equally divided on their teaching of intensive and extensive reading skills: 50% of them taught only intensive reading skills and either only recommended wide and frequent reading for pleasure or prescribed a wide range of texts (not necessarily literary) for private reading. The latter was not dealt with in lectures, but it was assessed. Texts sometimes served as examples or background for establishing context to main readings. Where this was the case, the purpose was to emphasise quantity (exposure) rather than

quality (competence). The other half of the universities taught both intensive and extensive reading. Intensive reading formed a compulsory, core module and the latter was in some cases electives such as literature, textual analysis, and media studies. Intensive reading was taught in order to raise students' awareness of the textuality of their readings; so that they (the students) could follow an argument and detect the multiplicity of "voices" in them (see 3.5.3.7).

All the universities taught various forms of writing. Those that offered a literary module taught writing within that genre and those that offered other modules taught it within their respective academic literacy frameworks. For example, business letters were written in Business Economics, letters to the editor were written in Communication, definition paragraphs in Science and argumentative essays in Law. Where academic essays were written, they were often researched first. The common purposes of writing were to create meaning, and to familiarize students with the discourse structure and conceptual framework of a mainstream subject. New forms of writing included the keeping of a diary and free-writing. The aim here was to raise students' language awareness and to foster free, written expression.

Overt grammar lectures were offered by 63% of the universities that were surveyed; the others taught it indirectly. Where it was offered, it was often aimed at providing students with metalanguage, developing students' critical language awareness, and familiarizing students with the discourse structure and key concepts of a mainstream subject.

7.8.6 Input provision

Every university that was surveyed used at least one of the following means of providing input: lectures, tutorials, laboratory practicals, textbooks, study guides, and journals. 78% of the surveyed campuses used tutorials. Besides providing for speeches, debates and conversations, tutorials were also used for talks about any aspect of a course and individualised attention. 61% of the practical English courses in South African universities used laboratory practicals. Laboratory practicals focused on listening comprehension, pronunciation and grammar.

EAP textbooks that were being used by 27% of the universities surveyed are *Read to Learn, Write to Learn, Cobuild Students' Grammar*, *Read Well*, and *Write Well*. In law faculties the ESP materials that were being used by 32% of the universities surveyed were *Beginner's Guide for Law Students*, and *English for Law Students*. 56% of the campuses that were survey had either developed their own materials already or were in the process of doing so.

7.8.7 Assessment

Assessment was continuous in all universities and done through various methods such as peer evaluation, tests and examinations. Some tests started with short-phrase answers that built up to short essays of about 2-3 A4-size pages. 29% of the surveyed universities reported that they used multiple choice questions, but these were supplemented by other question-types like short essays, Yes/No questions, and short-phrase questions. Besides being assessed continuously, students often wrote at least two take-home assignments, and two tests, which both made up a semester mark. The latter was combined with the exam mark and divided by two in order to get the final mark. In 84% of the universities that were surveyed, however, the examination mark weighed less, often 40%. Where total integration of content and language had occurred and a course lasted more than one year, a noticeable improvement in students' pass rate was said to have taken place. This indicates the effect time spent on a course has on the student's language proficiency. The more time is spent on a course, the better the results usually are.

In the open-ended question (question 52), it was indicated that practical English appeared to be worthwhile because students' language proficiency improved substantially after they had done the course. It was also pointed out that changing the course to ESP had helped increase the face-validity of the course and in turn increased motivation (see 2.3). The main negative comments that recurred were that since the course was a dead-end minor, it tended to demotivate students and that language specialists' ability to teach a content-related course was often called into question and classes were often too big for a practical course.

7.9 Conclusion

Consultations with law lecturers and the assessment of both the syllabuses and the examination papers of the first-year law programme at UNW indicate that for students to pass their first year, they need to have good reading and writing skills as well as a high degree of language competence. The diagnostic tests indicate that the average first-year student cannot meet the reading and writing requirements of the first-year law programme at UNW. Most of the first-years are aware of their deficiencies and would welcome an English course that would improve their communication and academic skills but they insist, just like senior law students do, that such a course should be based on their mainstream courses. This fact has been borne out by the lecturers who teach these students too. The need for English practical courses to be relevant has been expressed on other South African campuses too, resulting in the changing of many general practical English courses into ESP courses. So within the matrix of law topics, language study, i.e. grammar and Legal English in this research, are like a filling between the two slices of receptive (reading and listening) and productive (writing and speaking) skills. This does not imply that language study does not require the use of these skills, but rather that all four are continually being integrated in the structure/vocabulary/register part of the cycle.

Chapter 8

A SYNTHESIS: A FRAMEWORK FOR AN ESP COURSE

8.1 Introduction

This chapter relates to the literature review of chapters 2, 3, 4, 5, and 6 and to the results of the empirical investigation of the preceding chapter. It aims at providing a theoretical framework that can serve as basis for the design of an ESP course for first-year law students. The relevant sections are given in brackets.

8.2 Current curriculum

Every syllabus design should consider current curriculum ideas. Current curricular theories have influenced second language syllabus design. A syllabus for practical English should be in line with current generally accepted ideas on curriculum design. The model that this study has adopted meets this requirement. It comprises situation analysis, the aims of the course, content, and learning activities (5.2). These components supplement one another and create one integrated whole.

8.3 Evolution of support programmes

South African universities have tried to address the problem of educationally disadvantaged students by offering academic support and bridging programmes. One of the surveys in this study (7.9) shows that these programmes were initially seen as additional to mainstream programmes and were presented either prior to the start of tertiary study or during the tertiary study period in addition the normal lecture periods as part of the academic support programme (ASP) at the historically advantaged tertiary institutions which used English as the medium of instruction (2.6). *Report 116* (1996: 22) notes that "The latest development in this field is an approach known as "academic development" (AD), in which academic support is fully integrated into mainstream programmes. Besides using other models, some universities have already started using an integrated model (7. 9. 3). This is an ideal model because it obviates the problem of transfer of skills. But given the financial, staffing and

curricular implications it raises, the integrationalist model can only be a long-term goal rather than a short-term one at a historically disadvantaged campus like UNW (7.6.2). After the stand-alone-model proved to be ineffective (2.3), and in the light of the pilot study and needs analysis that preceded this research, the university has decided to use the second best model - the adjunct model - for its practical English course. In the adjunct model, a language specialist consults with a mainstream lecturer or lecturers and students, and, on the basis of this, relates his/her subject matter to mainstream subjects as much as possible (7.6.2).

8.4 EAS as a university subject

One aspect of English and Academic Studies (EAS) is that it is driven by academic content. It is related to the law programme that first-year law students take at UNW (2.3). General practical English courses are less popular nowadays because they are perceived as lacking "relevance" (7.4; 7.5; 7.6; 7.9). Its being content-related meets the requirement that a university subject should be intellectually challenging. Furthermore, the grammar programme is metalingual in nature, because it entails a deliberate analysis of abstract knowledge. Knowledge of metalinguistics can help students to reflect on their own work and become responsible for their own learning. Another aspect of the course is that it is practical; it helps students acquire the listening, speaking, reading, and writing skills that they need in their advanced learning processes (2.6; 3.5; 8.13). Lastly, the practical English course on which this study is based is not limited to the subjects' current language needs. In the consultations that were held with law lecturers and in the questionnaire they (the law lecturers) completed, one of the things that was mentioned was that EAS should prepare students for the language demands of their post-university careers (7.2; 7.6). This fulfils one of the requirements of the National Department of Education, which is that, in the case of career-oriented degrees, students should be trained to fulfil the requirements of a specific occupation (*Report 116*, 1996: 38).

8.5 The aims of the course

The general aim of the proposed course is to bridge the gap between high school and higher education (2.2). The subjects are advanced learners, but often more because of the level of instruction than because of their level of competence (3.4). If the ideal of restructuring,

development and life-long learning the South African government is pursuing is to be realised at institutions like the UNW, a remedial/developmental course is needed (2.2). The specific aims are two-fold. The short-term aim is to develop students' language skills. In the evaluation of the SPEN course that preceded this study (2.3), it was pointed out that there were very few students who did not need some sort of assistance in language learning and study skills. The needs analysis of this study confirms this finding (7.7). The long-term aim is to prepare students for the language demands of their careers. Developing students' language skills is in line with one of the requirements of *Curriculum 2005* (1997: 3), which states that education should be promote lifelong learning.

8.6 Product-oriented approach versus process-oriented approach

As ELT has generally shifted from the syllabuses which are based on the product, i.e. what students must be capable of doing at the end of the course, to syllabuses that emphasise the process of language learning, i.e., what processes should be created in order for acquisition to occur, it would seem that the best syllabus for the subjects of this study is one of the latter type (5.6.2). Needs analysis indicates that because of the subjects' past schooling, which tended to emphasise precision at the expense of creating meaning (2.2), and because of the importance of creating meaning in an advanced course, a course like EAS should - while not ignoring linguistic competence - emphasise communicative competence and encourage a critical attitude in students (3.5.3.2). It was indicated (7.7) that among the process syllabuses, one that is best suited for the subjects is the task-based language teaching syllabus (TBLT). There are four reasons for this choice. Firstly, the basic rationale for TBLT derives from SLA research. Secondly, it is based on needs analysis, which in this study has indicated that the subjects' language skills are inadequate (7.7; 7.8). Thirdly, TBLT is relatively structured, in the sense of being pre-planned and guided and is, therefore, pedagogically more acceptable than an unstructured syllabus. It was indicated above (5.6.2.3) that a too open-ended syllabus like the process one may be problematic with the type of students this study is concerned with. Fourthly, while it allows for pre-selection of content, it is flexible enough to provide for adaptations and negotiations of what might be necessary. This will make it easy for one to adapt the course so that it meets the requirements of OBE (5.3). The assessment of the subjects' examination papers and syllabuses indicates what possible topics can be used for inclusion in the proposed syllabus (7.3).

8.7 Sufficient input

Most of the subjects come from rural areas where exposure to English is minimal (2.2; 2.5). The students also have very little opportunity to use the language outside of the lecture-hall (2.2). For them to acquire English, they need as much exposure as possible. Exposure to the target language enables the learner to discover its underlying rules (5.6.2). Exposure also facilitates the acquisition of basic English and vocabulary. Acquisition of basic English is essential, because legal issues can be based on any topic under the sun. Possession of a wide range of vocabulary is important to law students, because a vast amount of what goes on in court and in legal literature is a dispute about the way words should be interpreted (4.2).

8.8 Practice

The chance to practise is crucial in a skill-based course like EAS. Students should be given as many opportunities as possible to exercise their techniques in controlling listening, speaking, reading and writing skills (3.5). In a task-driven course, group discussions, debates, speeches, role play, and problem solving exercises can be used for this purpose. Inductive learning promotes long-term retention; discovering rather than being told underlying rules favours retention (5.6.1.5). Students often enjoy the experience of inductive learning, because it is often challenging and seldom threatening (7.4; 7.5). Exercises on manipulating language in authentic activities such as role-plays, quizzes, games, etc. are equally important and can be fun too. Grammatical consciousness-raising involves the use of both inductive and deductive strategies by getting students to infer a rule from examples provided, and by requiring them to apply the rule in subsequent exercises (2.6.5). Transfer strategies can require students to transfer knowledge from earlier tasks to new ones (9.10).

8.9 The subjects' cognitive capacity

Adults can still acquire and learn language in an optimally conducive environment. The typical EAS student has reached the formal operations stage (2.4). They are capable of hypothetico-deductive reasoning, and may therefore benefit from a cerebral approach, which is normally found at university. Since grammar can be regarded as a liberal study (3.5.5), it involves, like most subjects of this nature, conscious, analytical learning of a body of

knowledge (5.5.2.3). This can be done deductively. An appeal to students' cognitive abilities might serve to heighten their motivation (2.4). Also, with the limited time lecturers have for EAS, a deductive approach may prove to be economical (7.2; 7.6)

The law lecturers said that EAS should develop students' critical skills (7.2.3). Since the erstwhile Department of Education and Training (DET) failed, in most cases, to provide the target group with basic and essential learning skills like critical thinking, one might be tempted to assume that one should work from a deficit model and attempt to inculcate the missing abilities in these students. The model in the proposed syllabus should not be a deficit one, though, because students tend to react negatively to courses that are pitched at matric level (Van der Walt, 1992: 98). Students generally do have essential cognitive skills; all they need is for these skills to be developed. Most of the DET schools made it virtually impossible for learners to use their basic cognitive skills in an academic setting. It achieved this by emphasising surface processing at the expense of deep processing. Rote-learning and uncritical regurgitation were the distinctive features of learning in most DET schools. Deep processing was not encouraged; in fact it was often discouraged. As a result, former DET students often do not use the cognitive skills involved in deep processing in their academic work (2.2.2). Establishing and emphasising students' strength is in keeping with Curriculum 2005 principle of taking cognisance of what the learner already knows and building on it.

As indicated in 5.3, teaching and learning are not value-free practices. Students' critical language awareness, therefore, needs to be raised so that they may appreciate how language studies can provide insight into the relationship between language, social meanings and power as well as values related to them. The proposed course should offer students the chance to interrogate the cultural and political constraints and opportunities within which individuals and societies live. Education is, as *Curriculum 2005* puts it, always the key to change (5.6.2.2).

8.10 Instruction

In the case of adult learners, especially those interested in academic work, we cannot assume that grammar will simply emerge on its own, given sufficient input and practice. For them, formal instruction in grammar is needed so that their output may characterize the structural

features acceptable to the academic world and the professional/corporate world outside academia (7.5.8; 7.6.6). Besides, advanced students often deal with contextually-reduced subject matter, which demands (of a learner) a mastery of grammar (3.5.5). Grammar tasks that focus on consciousness-raising rather than practice facilitate second language acquisition by providing both implicit and explicit knowledge about the morpho-syntactic features of the target language (3.5.5). In other words, "picking up" grammatical forms is accelerated when task-demands force the learner to pay attention to some features of the input; intake is that part of the input that the learner notices. According to Krashen's input theory (2.4), paying attention to language forms enables learners to notice the gap between their interlanguage output and the observed input, which, in turn, will help them reformulate and restructure their interlanguage, so that it conforms to the conventions of the target language. Failure to focus on form often leads to the fossilization of the interlanguage (5.6.2.3). The subjects have been taught grammar, but it was seldom contextualized. One can build on that experience and relate lessons to context through task-based teaching. This could be achieved by using a proportional syllabus with explicitly graded structural and functional components, with the results of the diagnostic test informing the selection of items (7.7). Added to this may be vocabulary, spelling and punctuation.

The teaching of vocabulary should be both direct and indirect and the lexical features of Legal English (4.2) and the results of the diagnostic test (7.7) can be used for selection of items. Since punctuation and spelling are important in legal discourse, EAS should include them and emphasize instances where their wrong usage distorts meaning or makes comprehension difficult (4.6). These three components could then be balanced with an analytic unit in order to provide for exercises that are not subject to any linguistic control (5.6.2.3). The latter could involve the teaching of receptive skills (comprehension and interpretation) as well as productive skills (speaking and writing).

8.11 EAP versus ESP

The communicative language teaching movement has emphasized language for communication. English is used as a *lingua franca* in South Africa and the ELT that aims at achieving communication in a specific situation is regarded as the successful way of

preparing students for their vocation. Van der Walt (1992: 95) comments that "the most recent developments in LSP [Language for Specific Purpose] focus on the skills and strategies that learners need to develop to learn a language". In other words, there are strategies and skills which underlie the learning of a language within a specific context, and the development of these skills is not dependent on the surface forms of the language (2.3; 7.8). The target group's awareness of the unique usage of language in their mainstream subjects needs to be raised. One of the problems that first-year students manifest is that of transfer (2.5). Also, in 7.8 it was indicated that inadequate lexical links in the subjects' essays often resulted in incoherence, which in turn led to communication breakdown. Relating language input to students' content minimises the problem of transfer by linking teaching points to a subject or context. When designing a subject-linked language course, the language teacher takes the cognitive demands of the discipline and uses these as an organising principle. This also facilitates acquisition of vocabulary more than teaching general English.

Furthermore, discourse findings have indicated that Legal English can be used to oppress and exploit people, especially where the language is a second or third language (4.6), as is the case with the subjects of this study, and (through the law) functions and controls virtually every facet of life. Studying Legal English will, among other things, raise students' awareness of this potential danger.

One of the important factors in successful learning is the presence of motivation. All the first-year law students (7.4.5), the senior law students (7.5.4) and law lecturers (7.6.1) said EAS should be content-related. The assessment of the syllabuses of the first-year law programme and examination papers indicates the topics that can be used to create a context for the presentation of the proposed course (7.3). The survey of practical English courses on South African universities indicates that a great many universities offer ESP rather EAP courses now (7.9).

Although vocational training is not its main aim (7.6.2; 8.4), the proposed course can link English for Specific Purposes (ESP) and language for specific vocational purposes relatively easily. The listening (3.5.1) and speaking skills (3.5.2) that are practised in seminars, lectures and mock trials (7.6) can be used in court proceedings. The reading skills that law students

use to decode cases, contracts, journals, textbooks, and statutes (7.2.3) can be used to do the same in a law profession. The same skills that a law student uses to write an essay (3.5.4) can be used in drafting a legal document or an article for a journal.

8.12 Team teaching

A language course for law students, which is taught by language specialists that have very little knowledge of law demands an interdisciplinary approach. The language and content teachers may collaborate to design such a course (5.6.2.2). Content teachers are not confident enough to give language-related input (7.6.2) and students' problems are - though sometimes conceptual - fundamentally language-related (7.6.2). This collaborative teaching will increase the face-validity of the course and motivate students all the more (7.9.2).

Consultations with law lecturers and the questionnaire they filled in (7.2; 7.6) indicated that EAS should develop students' general language competency, alert them to Legal English and equip them with academic skills within the framework of law studies. Collaborative teaching can be a great help in the teaching of all the major language skills and grammar in EAS. In the teaching of reading skills, for example, law lecturers may highlight the important points, which the language lecturers then help to integrate. The difficulty with merely reading the textbook or a case is compounded when law lecturers use only parts of it, or refer to it for background information while they structure the course according to their own insight into their fields (4.4.1.1). In teaching writing, the language lecturers could concentrate on form, marking draft assignments for language use, clarity of expression and organization, while the law lecturers focus on content. Moreover, team teaching is in line with the interdisciplinary approach of outcomes-based education (5.3).

8.13 Language skills

An ESP course for law students will use themes from the mainstream course to teach the four major language skills as well as Legal English. Implications for such a language programme are given below.

8.13.1 Listening

The subjects' exposure to English was said to be inadequate; as a result their listening skills are often deficient at the beginning of the academic year (2.6.1). The past mistake of emphasising the teaching of reading and writing at the expense of the teaching of listening in ELT should not be repeated (3.5.1). When listening skills are taught, they should not be limited to the recognition of segments - phonemical, morphological or syntactical - or content, but it should include things such as discourse markers, prediction, pragmatics and listening strategies (3.5.2.1). Law students need to have good listening skills because they need to take down notes during lectures and interact with their colleagues in seminars (7.2.1). Law practitioners should have good listening skills for consultations and court proceedings (7.6.3). Teaching listening comprehension, then, is important in the proposed course. It helps expose students to English and promotes the teaching of reading, writing, grammar and vocabulary.

8.13.2 Speaking

It was pointed out that the speaking skill is important, especially for prospective law practitioners like the subjects, and it should be practised (3.5.2; 7.2.2). Regarding pronunciation, while the native speaker model can be used as a point of reference, focus should be placed on the teaching of the non-native speaker's respectable form (3.5.2.1.1). Interactive skills should focus on asking questions (for clarification, for repetition, or for further information) in lectures, participation in tutorials, and oral presentations. Since the first-years and senior law students want EAS to be participatory (7.4.7; 7.5.8), one of the means of achieving this is to use role-play. Various situations that involve a legal issue can be role-played. The interaction in small groups and in class conversations will also provide the learners with the requisite input and opportunities to utilize English. Pair or group work should draw students' attention to the effect their discourse has on other learners. Outside of the classroom students should develop a sensitivity for those occasions when they experience communication breakdown (5.3).

While themes will be used as the basis for the envisaged syllabus (7.3.2), it does not need to be the only organizing principle; a functional-syllabus component can also be used in order to

ensure that fluency as well as grammatical accuracy are achieved (5.6.2.3). First-years, senior law students and law lecturers attach a good deal of importance to grammatical accuracy (7.2.5; 7.4.10; 7.5.8).

8.13.3 Reading

This situation is no different in their campus environment. Most of first-years do not only lack reading proficiency to pursue a higher education satisfactorily; they also have not acquired the background knowledge that only a long habit of reading for pleasure can bring about (2.6.3). The acquisitional context that the subjects were exposed to before they came to university (2.2) did not encourage them to read for themselves. It is, therefore, necessary to expose students to English through reading as this is one of the ways through which they will acquire communicative competence. The ability to interpret underlies all uses of language. In 7.7.1 it was indicated that students' endophoric, exophoric, and metacognitive decoding skills were inadequate. Other areas in which the first-years are expected to be good at are - within law - synthetic and critical reading (3.5.3.7), vocabulary (3.5.3.2), and speed-reading (3.5.4.8). All law students are required to read in order to obtain information, to understand ideas, to discover an author's viewpoint and to seek evidence for their own point of view in essay writing (7.2.3). Besides using first-years' prescribed books, one can use various reading texts that are relevant to students' topics. The texts can be drawn from cases, statutes, contracts, magazines, journals and newspapers, etc.

8.13.4 Writing

While at the beginning of the course there may be justification for the use of the basic forms of writing, at the advanced level (3.5.4), emphasis should be on writing for fluency, writing for communicative competency, and writing for learning. Writing for fluency is necessary because rote learning has discouraged the use of creativity in many of the subjects and destroyed their sense of self-reliance as well (2.2). Teaching language awareness through keeping a diary/journal will encourage students to take control of their own learning (5.6.2.3). The diagnostic essay test indicated that the subjects had serious cohesion and coherence problems (7.8.1; 7.8.2). Drawing students' attention to the decoding problems these mistakes cause will heighten their (students') sense of audience (7.7.2). Writing for learning will

encourage looking at writing as a means for creating meaning. The diagnostic essay test showed that the subject did not adopt this approach (7.8). Basic interpersonal communicative skills (BICS) are easier to acquire than cognitive academic language proficiency (CALP) skills because, while the former skills are context-embedded, the latter are context-reduced (6.4). Writing on a law topic will provide context and make the creation of meaning more authentic than writing in a void (3.5.4).

8.13.5 The integration of the language skills

Although one may choose to emphasise one particular skill at some stage, it should be borne in mind that all the language skills are interconnected (9.10). Language use is a combined skill where everything depends on everything else. The ultimate goal, therefore, is to integrate all the four major language skills as much as possible. Listening to a lecture, for example, may lead to writing in the form of note-taking and reading when students expand their notes by consulting some source. Listening in a seminar may also lead to debating some points; reading may lead to writing; pronunciation may be corrected during a lecture or seminar; reading and writing exercises may engender grammar exercises; and language functions are practised in various sections of the course. The same cohesive devices that are used in the teaching of listening skills can be used in reading and writing.

8.14 A theoretical framework for the proposed syllabus

Since the research that preceded this study indicated that there was a need for the practical English course at the University of North-West to be made content-related (2.3.) and since the first-years' questionnaire (7.4.3), interviews with senior law students (7.5.4) and law lecturers (7.6.1), and current ELT teaching (5.6; 7.8) show a preference for such a course, the proposed syllabus is based on English for Specific Purposes. This approach is in line with the inter-disciplinary approach of outcomes-based education (5.3).

The syllabus derives learners' needs from situational analysis (including linguistic, communicative, and pragmatic competencies that the learner should master), and specifies the outcomes of the course (5.3). This model should ensure that the stated outcomes are realistic.

Outcomes determine the content, learning tasks, and assessment. Content has three components to it. First, it involves knowledge (5.3). In the proposed syllabus, topics - especially those that occur across the target group's law programme - relate the course to the discourse structure and vocabulary of law studies. Law textbooks, law journals, contracts, cases, and statutes are used as much as possible. Relating the subject matter to what students do in their mainstream courses like this helps reduce the problem of transfer and enhances face-validity (2.3). The second component concerns skills. Teaching points are specified and used to teach the requisite academic skills and improve students' language so that they can carry out their studies successfully (1.2). Thirdly, the question of values and attitudes is addressed. The very foundation of law - justice, equity, human dignity - suggests values and attitudes. So most of the law topics used in the course (9. 4.3 Unit 1; 9.4.5 Unit 4; 9.4.6 Unit 16) and the section on the Plain English Campaign (4.6) interrogate this foundation frequently.

The proposed syllabus also contains non-ESP components. Pronunciation serves as a necessary adjunct to the main components. Emphasis will be on competency in decoding rather than encoding speech (3.5.2.1). Social or survival English in an English speaking country like South Africa fulfils the target group's perceived present and future needs (7.6.4).

The course is based on lecturer-driven activities and learner-centred tasks. As the manager and facilitator of learning, the teacher may introduce the subject matter, briefly explain a teaching point, facilitate discussions, monitor an activity, and arbitrate a dispute. Students' learning tasks are centred on solving problems of various and varied kinds. The tasks allow students to work individually, in pairs or small groups, and as a class (9.5). They (the tasks) aim at promoting logical and complex thinking, creative and critical attitudes, collaborative learning, and meaningful memorisation (5.3); in short, they facilitate deep processing rather than surface processing and rote-learning (2.2.2; 7.7.1.2; 7.7.1.3). They are meant to develop students' academic skills as well as language competence; and to interrogate values contained and suggested in their various law subjects (7.3).

Assessment is varied. Since the proposed course is task-based, success in carrying out a task will indicate that learning has taken place; that students have reached a level of competence defined as mastery (9.10). Most of the assessment will be done by the lecturer. Some,

however, will involve peer-correction, senior students, and self-assessment. In writing, for example, students can use a correcting code to assess one another's work. Peer-correction can save time, especially in large classes such as the target group's. It then allows the lecturer the time to concentrate on major difficulties. It also encourages communication between students, always providing immediate valuable feedback, which in turn helps to develop students' sense of audience (5.6.2.3). Using senior students to help assess first-years serves the same purpose. Self-assessment will when students do speed-reading (9.7.3.4) and keep a diary/journal (5.6.2.3). The latter should helps raise students' language awareness and form a foundation for principled observation, data collection and analysis or research.

Assessment is formative and summative. Formative assessment focuses on the various evaluations of students' performance at the different stages during the course, while summative assessment appraises students' performance at the end of a course/module. Both of these types of assessment can involve intensive (9.8.19), impressionistic (9.8.4), focal (9.8.5), responsive (9.8.22), collaborative (9.8.22), or self-marking (9.7.3.4). Assessment can also take a discrete-point format (9.9.10) or an integrative format (9.8.19).

The proposed syllabus adopts criterion-referenced testing. Used throughout, are tests for assessing what a learner is able to do according to *his* or *her* mastery of specified outcomes; not what his/her colleagues can do (norm-referenced testing).

Small tutorial groups should complement lectures. Because it is, presently, impossible to extend the course beyond one year (7.6.1), it would help to have more than the present four lectures and one tutorial per week. The more opportunities students get for practice, the better their competence often becomes, particularly if this is supplemented by exposure to the target language. The survey (7.9) indicates that in the ideal subject-related teaching situation where language development has been fully integrated in the mainstream courses, students can have as many as eight periods (of language and content) per week and the pass rates are reported to have improved.

8.15 Conclusion

The chapter has presented a synthesis of linguistic and pedagogic principles that should serve as a framework for the syllabus in the next chapter. The synthesis was informed by the current and future language needs of first-year law students at UNW, curriculum studies, current thinking in second language acquisition, as well as a survey of practical English courses in South African universities, which were all discussed in the preceding chapters.

Chapter 9

A PROPOSED SYLLABUS AND GUIDELINES FOR IMPLEMENTATION

9.1 Introduction

The previous chapter detailed the variables that should be taken into consideration when one designs a course like the proposed one in this study. The next logical step is to specify the elements of the syllabus. This chapter, then, determines the aims of the course first. It then specifies the content, learning tasks, and assessment criteria. Although these elements occur separately, they will be integrated in most of the units. Lastly, the chapter presents suggestions for implementation.

9.2 The outcomes of the course

9.2.1 Terminological distinction

Until the advent of Outcomes-based Education (OBE), the terms that were often used to indicate the goals of teaching were aims and objectives. Wheeler (1979: 31), for instance, uses ultimate, mediate and proximate goals. Zais (1976: 6-7) speaks of aims, goals and objectives. Boshoff (1977: 6-7) speaks of long-term, short-term and immediate-term objectives. In OBE literature the terms used for the similar concepts are "essential and specific outcomes" (see 5.3).

While the broad conceptual distinctions between these terms will be retained, the OBE nomenclature will be used to refer to the following:

(i) The ultimate outcome of a course

The ultimate outcome of a course is about the long-term result of the course, which is normally expressed in abstract terms and often provides the rationale for teaching the programme. It points out the overall direction of the course and suggests the worldview of the learning institution in which it exists.

(ii) The critical or essential outcomes

In terms of notions, critical outcomes are narrower concepts than ultimate outcome. The critical outcomes are stated in terms knowledge, skills, attitudes and values that the student will have learned at the end of the course. In OBE critical outcomes are cross-field because it is assumed that "the world is a set of related systems" (*Curriculum 2005*, 1997: 16). This means that problem-solving contexts do not exist in isolation. The aim of a course is often to ensure that any lesson or teaching is in line with the attainment of the ultimate outcome.

(iii) The specific outcomes

Specific outcomes are subcomponents of the critical outcomes. They indicate the desired results at specified stages of the course, e.g. such as may be accomplished in a series of lessons, a unit or a module. *Curriculum 2005* (1997: 16) specifies eight learning areas with their own peculiar outcomes. One of these learning areas is Communication, Literacy and Language Learning, under which EAS falls. The specific outcomes of this learning area are given under 5.3 in this study and they are all pertinent to EAS. The purpose of making specific outcomes explicit is to ensure accountable teaching and learning. Specific outcomes ensure that whatever educators do in their classrooms and with their courses meets with the nationally agreed-upon outcomes. This study will detail the specific outcomes of EAS.

Unlike the long-term outcomes discussed above, immediate outcomes are short-term. They are very explicit, operational in nature. They are an integral part of methodology, because they indicate what can be achieved at the end of a lesson. Since this study does not deal with methodology, the immediate outcomes of EAS will not be stipulated.

9.2.2 Stating outcomes

Stating the aims of a course can take various forms. Van der Walt (1992: 400) notes that "many people argue that the aims and objectives must be stated in the most explicit, many behavioural terms possible". Behavioural (performance) aims and objectives can be traced back to behaviourism (cf. 5.6.1). Kirkton (1971: 142) points out that "Behavioural objectives are statements of desired student behaviour which specifically identify and describe in that

observable, measurable terms what is to be accomplished." There is a danger that the stating of objectives in this manner can be merely technicist. Van der Walt (1982: 400) remarks that in the English profession, particularly, there has been an aversion towards the use of predetermined outcomes as the basis for syllabus design. Nevertheless, stating explicit outcomes has becomes the norm in teaching. Empirical evidence, according to Davies (1976: 77-78), does not indicate that one approach is any better than the other. The difference is that now the integrated approach puts emphasis on the student rather than on the teacher or the content of the course as was the case before (cf. 5.6.1; 5.6.2) and allows for various starting points. Newfield and Janks (1998: 65-81) observe that in integrated teaching, it does not matter where one begins in conceptualising a lesson.

Common sense suggests that the stating or not stating of outcomes should be informed by the situation in which teaching and learning occurs. All in all, stating outcomes serves as a useful guide to the course designer, educators and learners. Educators who can assess the outcomes of their own teaching are in a good position to help learners assess their own progress towards the attainment of the competencies they need for the outcomes they require. Self-reflective educators can teach learners to become self-reflective and to be independent and critical in assessing themselves. Furthermore, stating outcomes serves as means of accounting what has been taught and learned.

9.2.3 The organisation of outcomes

Outcomes are normally organised in terms of taxonomies. The term "taxonomy " is derived from Biology and, according to Proctor (1976: 3), it means " ... a classification in hierarchical form, proceeding with the most general at the top, by successive branches or subdivisions down to the most specific, or the other way round."

Bloom's (1956) first main division of outcomes has three parts to it, viz. psychomotor, cognitive, affective. The psychomotor domain classifies outcomes that have to do with muscular and motor skills like speed reading, speech, pronunciation, etc.

Cognition concerns thinking and knowing. Bloom's taxonomy classifies cognitive outcomes from the lowest to the highest level, in terms of complexity of thinking:

(i) Knowledge: this is the least complex and refers to knowledge of specifics, universals and abstractions.

(ii) Comprehension: this is the lowest level of understanding and refers to the ability to paraphrase, to interpret, to extrapolate from given data.

(iii) Application: this is using in a new situation the principles or ideas grasped at the previous level.

(iv) Analysis: this involves comparing, contrasting, balancing of concepts, and similar mental skills; analysis of elements, of relationships, of organisational principles.

(v) Synthesis: this is producing new structures, one's own picture, from known data or phenomena.

(vi) Evaluation: this is the most complex thinking process. It refers to the ability to come to a reasoned and critical judgement of what has gone before.

The affective domain concerns attitudes, values, interests and motivation. Affective goals have received very little attention in the past but they have been given much prominence in OBE (cf. 5.3). This is a step in the right direction, because attitudes and values influence language acquisition and use to a great extent. Moreover, for students to be critical, they need to focus on values and attitudes. These three divisions are comparable to the three components of content in OBE, viz. knowledge, skills, values and attitudes (cf. 5.3).

The best known taxonomy is, in Van der Walt's (1982: 402) words, is that of Bloom. Although Bloom's taxonomy is meant for all traditional school subjects and not particularly language teaching, and the three divisions may appear artificial, the taxomomy it still relevant. It ensures that outcomes are not all stated on the same level and precision of analysis. The three divisions should not be regarded as incompatible; they are, actually, complimentary to each other.

9.2.4 Criteria for the statement of outcomes

The following criteria for the statement of aims are proposed for this study:

(i) A distinction is made between the ultimate outcome of the proposed English course, critical outcomes, and specific outcomes.

(ii) Outcomes indicate what a student will be able to do in terms of cognitive and physical behaviour.

(iii) Where applicable, outcomes are stated in terms of receiving and creating meaning.

(iv) The outcomes serve as a guide to the selection of content, learning tasks, and evaluation.

(v) The outcomes are realistic; the students' background and the constraints on the course have been considered.

(vi) The determination of outcomes considers the intellectual challenge that a credit-bearing course like EAS should present.

(vii) The determination of outcomes is informed by the psychology of language acquisition.

(viii) Outcomes take into account the broad national educational needs of South Africa and relate these to students' specific needs.

(ix) Outcomes are flexible and always responsive to unpredictable needs.

(x) Outcomes are in the final analysis a reflection of the designer's ideology.

9.2.5 The ultimate outcome of EAS

The ultimate outcome of the English and Academic Skills for law course is, as its the name implies, to provide fundamental skill in English language, communication and academic literacy. In other words, the aim is to enable students to acquire the required linguistic, communicative and pragmatic competencies in English as a second language as well as some content-related skills. The aim is to redress students' educational disadvantages of the past so that they may be well equipped to study successfully at the level of higher education.

9.2.6 The critical outcomes of EAS

The following are the critical outcomes of the course:

(i) Acquisition of the knowledge system of English as far as it relates to the following major language skills:

* ability to understand spoken language.
* ability to speak confidently, appropriately, pronounce as accurately as possible, and negotiate meaning.
* ability to read fast and with understanding so as to access, process, and use information.
* ability to use writing as a means for creating meaning, and for communicating appropriately.

(ii) Providing students with metalanguage and analytical skills through grammar and vocabulary of English resulting in greater effectiveness in creating meaning.

(iii) Raising students' critical awareness of the discourse structure of Legal English as an example of how English can be used in a profession and in society.

(iv) Developing an awareness and understanding of one's own learning processes in order to view learning as a life-long engagement.

(v) Learning to work collaboratively and in groups in preparation for the professional and social roles students will play.

9.2.7 Task-based teaching

Nunan (1989: 10) defines "task" as "a piece of classroom work which involves learners in comprehending, manipulating, producing or interacting in the target language while their attention is principally focused on meaning rather than form." Finding a solution to a problem usually completes some tasks, but many others cannot be completed by finding answers to them. For instance, at the end of a task participants may have to agree to disagree. The latter should also be regarded as a valid way of completing a task.

While "task" can be viewed as "content", i.e. it could form the subject matter of a course, it could also be viewed as "method", i.e. one of the means by which learning and teaching

could be effected. As a method a task should, according to Nunan (1989: 15), meet the following criteria:

(i) It should enable learners to manipulate and practise specific features of language.

(ii) It should allow learners to rehearse, in class, communicative skills they will need in life.

(iii) It should allow for individual, pair, group and class work.

(iv) It should involve learners in solving a problem that ends in some conclusion.

(v) It should be based on authentic or naturalistic sources of materials.

(vi) It should have built into it a means of evaluating the success or otherwise of the task.

(vii) It should be based on a multi-skills (multi-literacies and metacognition) approach.

These criteria are closely linked to the critical outcomes of Curriculum 2005 (e.g. identifying and solving problems by using creative and critical thinking and working effectively with others in a team, group organisation and community) as well as to the seven specific outcomes of the same (e.g. making and negotiating meaning and knowing an applying language structures and conventions).

The tasks that students do are closely related to lecturer-led activities in which explanations and demonstrations and other managerial acts may be made.

9.2.8 <u>The proposed syllabus</u>

A course for English for first-year law students can now be specified so as to achieve the critical outcomes of the syllabus. The proposed syllabus comprises six main areas aimed at developing students' skill and knowledge. These are the listening, speaking, reading and writing skills and grammar and pronunciation.

The course will comprise the following programmes:

(i) The listening skills programme

A programme of developing students' listening comprehension (for one module, at least). The students will be required to do a variety of listening comprehension exercises involving a range of spoken texts. Special attention will be paid to meanings conveyed by stress and intonation.

(ii) The speaking skills programme

This programme is based on a functional syllabus as well as conversation classes. The functional syllabus seeks to equip students with the various functions that language serves. In order to supplement this, conversation classes primarily aim at developing students' fluency, while taking functions use into consideration. The programme is designed to develop students' speaking skill and build their confidence in using English for everyday communication and academic discourse. Attention will also be paid to negotiation of meaning, stress and intonation.

(iii) The reading skills programme

While this programme recommends individual extensive reading, it will focus on intensive reading. Its aim is to develop students' reading and comprehension skills, critical language awareness, reading speed and vocabulary. A collection of texts from students' mainstream courses will be used.

(iv) The writing skills programme

This programme aims at teaching students to use writing as a learning tool in the creation of meaning. It is based on essay writing, legal reports and keeping a diary/journal. The themes are drawn from law subjects. When essay writing is done, emphasis will be placed on writing as a process and aspects like decoding the rubric, writing a paragraph, writing an argument, editing and revising will be highlighted. The spin-offs here are acquisition of vocabulary,

especially that which has to do with decoding the assignment, and improvement of grammar and spelling through editing.

(v) Grammar

This component focuses on a formal study of certain aspects of English grammar at an advanced level. It is accompanied by an extensive programme of contextual practice. The grammar component forms the "academic" part of the course and aims at contributing to the development of students' language skills.

(vi) Pronunciation

This component is based on negotiating the tension between intelligibility and identity by using RP only as a point of reference rather than the norm. This suggests that it should focus only on the glaring pronunciation errors of African language speakers of English.

(vii) Integration of units

Although some units focus on the teaching of one skill at some time, the principle that is followed throughout is that of the integration of all skills. For example, at the beginning of a programme some units may emphasise listening comprehension but later accentuate two different skills such as listening and writing when note-taking is taught. Some of the skills taught in listening skills exercises such as the use of semantic markers to decode a text can also be used in the decoding and encoding of a written text and also in creating a spoken text. Grammar and vocabulary will be recycled throughout the course. In practice, all the units should involve the integration of the four language skills to a greater or lesser extent.

9.3 The listening comprehension programme

9.3.1 Introduction

The purpose of the listening programme is to improve students' recognition and comprehension of speech through training the perceptive skills, which should lead to the

improvement of students' listening comprehension skills. The programme should pay special attention to problem areas like cohesive devices, and prosody. Attempts should be made to highlight relationships between the programme and other learning processes such as speaking, reading and writing, grammar and vocabulary. Note-taking, for example, is closely linked to the teaching of listening skills and it would help students a great deal to teach them how to maximize their note-taking skills through strategic listening.

Two kinds of spoken texts can be identified:

(i) Unidirectional talks

Unidirectional tasks include lectures, talks, some radio and television programmes. They are cast in formal style and have close affinity with written language, hence Abercrombie (1965: 2-5) calls it "spoken prose".

(ii) Interactive texts

Interactive texts include partially formal conversations or panel discussions where a chairperson and a few interlocutors (often with different viewpoints) discuss a topic. Unlike "spoken prose", these texts are characterised by the features of authentic speech such as turn-taking, hesitations, repairs, unfinished utterances, overlaps, questions and answers, agreement, disagreement, etc.

It is recommended that the programme of listening comprehension be taught in the language laboratory for a least one module or quarter. Students can get immediate feedback in the language laboratory, and follow-up work may be done in class. Students can do a range of exercises based on theoretical principles (cf. 3.5.2.2). One can exploit one text in various ways: For instance, different exercises dealing with different teaching points can be based on one text. Because of time constraints (cf. 7.2), the tasks will involve intensive listening only. It would be difficult to use extensive listening texts like court proceedings and the Truth and Reconciliation Commission hearings.

9.3.2 Selection of material

The following criteria for the selection of the material in the listening comprehension programme are suggested:

(i) The materials should be, as far as possible, content-based.

(ii) The materials should be authentic.

(iii) The materials should be task-based.

(iv) The length of each text should be approximately 3-5 minutes on average.

(v) The materials should interest students.

(vi) The materials should be varied.

(viii) The material should serve the students' needs.

9.3.3 Grading of the material

The criteria for grading which are used for the reading programme below (9.7.2) can be used here as well because reading and listening are closely related. However, since the development of listening skills relates to the spoken rather than the written text, prosody and accent variants need to be added. One could start with teaching the salient prosodic features like stress and end with less salient ones like rhythm. Regarding accent, the first lesson or two could be based on those accents students are familiar with (e.g. typical South African accents) before introducing the less familiar ones (e.g. typical British and American accents).

9.3.4 The syllabus

9.3.4.1 Unit 1: Preparing for a lecture

Specific outcome

Students should be able to prepare for a lecture by skimming their readings, brainstorming the topic (of the lecture), and gathering all the writing tools they will need *before* a lecture begins.

Content

* Video-tape of a lecture.
* Writing tools: arch-lever file, exam pads, and two pens.

Teaching-learning tasks

* The lecturer explains the need to make one's mind receptive before a lecture begins.
* In pairs, groups and in class, students discuss the necessity of taking down notes during a lecture and the pitfalls to avoid.
* The lecturer shows students the writing tools for note-taking, explains their uses and consolidates students' reasons for note-taking.
* Students analyse a video, focusing on skimming the readings and brainstorming one's ideas in order to prepare oneself for note-taking *before* a lecture.

Assessment

A written assignment assessing students' knowledge of techniques for preparing for a lecture.

9.3.4.2 Unit 2: Specific information

Specific outcome

Students should be able to extract specific information from a text.

Content

Tapes containing short unidirectional discussions (about 3-5 minutes each) of legal topics.

Teaching-learning tasks

* The lecturer explains the need for scanning a text and gives illustrations of this.
* Students read a set of questions before they listen to a tape recording.
* Students do scanning tasks.

Assessment

A short test to assess students' ability to obtain a specific piece of information from a spoken text.

9.3.4.3 Unit 3: Information structure

Specific outcome

Students should be able to identify the information structure in a lecture (topic, subsections, main ideas and supporting details or digressions) so that they can take notes selectively and effectively.

Content

* A recorded law lecture.
* Transcripts of lectures or simulated lecture.
* Listening comprehension exercises.

Teaching-learning tasks

* The lecturer explains the need for recognising the information structure and gives illustrations of how to identify main points and as well as subsections.
* Students listen to an audio-cassette and identify the information structure of the lecture.
* Students do listening comprehension exercises, focusing on the main points only.
* Students use transcripts or written copies of simulated lectures to make mind maps or linear notes.

Assessment

A short test assessing students' ability to use mind-maps or linear notes to demonstrate their comprehension of the structure of a lecture.

9.3.4.4 Unit 4: Cohesion and coherence

Specific outcome

Students should be able to identify cohesive devices in a spoken legal text and to determine coherence where no logical devices are used.

Content

* Recorded law lectures.

* Real law lectures.
* A variety of unidirectional listening comprehension texts based on law.
* Listening comprehension exercises.

Teaching-learning tasks

* The lecturer demonstrates the functions of logical devices in a lecture.
* The lecturer demonstrates coherence in a legal spoken text.
* Students identify logical connectors and determine their functions in lecture transcripts or in written copies of simulated lectures.
* Students fill in gaps with logical connectors in lecture transcripts or written copies of simulated lectures.
* Students supply logical connectors in texts which, although coherent, do not have these language forms.

Assessment

A listening comprehension test.

9.3.4.5 Unit 5: Prosody

Specific outcome

Students should be able to identify the functions of different features of prosody (stress, pitch, tone, volume and speed) in a lecture.

Content

* Short audio-tapes.
* Listening comprehension exercises.

Teaching-learning tasks

* The lecturer explains the functions of prosodic feature of speech (e.g. stress to mark contrast, part of speech, topicalization; pitch to signal attitude; volume to highlight the degree of importance; increased speed to mark vocal equivalent of utterances and throw-always).
* Students do listening comprehension exercises.

Assessment

A listening comprehension test.

9.3.4.6 Unit 6: Following instructions

Specific outcome

Students should be able to follow instructions (warnings, suggestions, advice, recommendations, directives, etc.) in a lecture.

Content

A video recording of a lecture on a law subject.

Teaching-learning tasks

* The lecturer explains that, besides giving information, lectures often contain instructions that students should follow, and illustrates this.
* Students watch the video recording.
* Students identify instructions contained in recorded lectures.

Assessment

A comprehension test based on a video-tape and requiring students to identify the instructions contained in the tape.

9.3.4.7 Unit 7: Different accents

Specific outcome

Students should be able to follow speech in various accents (e.g. various South African accents, Nigerian, British, and American).

Content

* Unidirectional and interactive texts of about 3-5 minutes each.
* Listening exercises.

Teaching-learning tasks

* The lecturer explain the concept of accent and gives a few illustrations.
* Students listen to the given texts.
* Students do listening comprehension exercises.

Assessment

A listening comprehension test.

9.3.4.8 Unit 8: Sociopragmatics

Specific outcome

Students should be able to detect sociopragmatic aspects of a spoken text.

Content

* Interactive texts containing sociopragmatic speech elements such as conversational implicatures (expressing a request or challenging authority), figurative language (especially, metaphors, irony, and understatement), and cultural assumptions (e.g. "up" is good as in *high*–minded, *lofty* position; "down" is bad as in *low* trick, *underworld* living.
* Listening comprehension exercises.

Teaching-learning tasks

* The lecturer explains how context affects meaning and gives a few sociopragmatic illustrations.
* Students listen to conversations and then answer questions.

Assessment

A comprehension test focused on sociopragmatics.

9.3.4.9 Unit 9: Formal and informal styles

Specific outcome

Students should be able to detect how colloquialism can be utilized to suggest friendliness; how analogies, expressed in everyday language, can be employed to explain certain scientific concepts; and how digressions can be used to forestall or repair apparent contradiction in the main line of argument;

Content

* Legal exemplars of unidirectional and interactive texts.
* Short lecture transcripts.
* Cloze-type and comprehension exercises.

Teaching-learning tasks

* The lecturer explains the concept of levels of formality and uses a transcript for illustrations.
* By means of cloze-type exercises, the lecturer introduces students to concepts of paraphrase and expansion.
* Students make predictions about the discourse direction.
* Students practise note-taking.

Assessment

The note-taking task is assessed.

9.3.4.10 Unit 10: Summarizing techniques

Specific outcome

Students should be able to summarize information in a lecture.

Content

* A hand-out containing a list of illustrated summarizing techniques (e.g. selecting main points, paraphrasing, using abbreviations, symbols, etc.).
* Recorded lectures.
* Exercises on using summarizing techniques.

Teaching-learning tasks

* The lecturer explains the importance of summarizing techniques in note-taking.
* Students read and discuss the list of illustrated summarizing techniques with examples.
* Students listen to a short recorded text.
* Students listen to short recorded lectures and use summarizing techniques to condense them.

Assessment

Assessment of a summary.

9.3.4.11 Unit 11: Making notes

Specific outcome

Students should be able to make notes by revising and expanding the information they take down during a lecture.

Content

* Two video recordings of lectures on a law subject.
* A take-home note-making assignment.

Teaching-learning tasks

* The lecturer explains the need to supplement note-taking with note-making (revising, re-organizing, and expanding collected information and use one of the video recordings for illustrations).
* The lecturer explains a few inefficient ways of making notes.
* Students watch the other video recording and take down notes.

Assessment

Assignment requiring students to review, expand and revise the notes they have taken down.

9.4 A course in spoken English

9.4.1 Introduction

In their questionnaire, the first-years rated the development of speaking skills as their most desired improvement (7.4.10) because, they said, they were unsatisfied with their ability in that area (7.4.8). Also, the second major change which senior law students said they wanted to see in EAS was that the course should help develop speaking skills (7.5.8). The senior law students also said that they thought that speaking was the most important skill for success in their law studies (7.5.6). It is, therefore, imperative that EAS offer a programme in spoken English. Since it is difficult to teach speaking in large groups and students have few opportunities to speak English at UNW (2.2.3), a functional programme for teaching students various functions in English should be mounted in the first place. Secondly, the teaching of the speaking skill should occur in small groups during any class that is meant to develop students' academic skills and language. It will be assumed, then, that most classes in the proposed syllabus involve some group work. Thirdly, tutorials or conversational classes aimed mainly at improving students' fluency should be used to consolidate the two types of input mentioned above. This section discusses a functional programme; input for conversation classes is discussed in the next separate section.

The principal outcome of the programme in spoken English is to enable students to be active participants in discussions in English. They should be capable of expressing themselves effectively, appropriately and confidently. In Hymes' (1978: 15) words, they should acquire "competence as to when to speak, when not and as to what to talk about with whom, when, where and in what manner." Furthermore, they also need to be encouraged to weigh spoken texts against their own ideas and values as well as those of others as they create and negotiate meaning, because language is, as Waller (1986: 5) puts it, "the primary site of ideological struggle, since our perception of reality is mediated by language" (see 2.6.3).

Needs are not expressed only in terms of grammar and vocabulary, but also in terms of situations and operations for which the second language is needed. The course seeks to develop students' communicative competence, i.e. their knowledge of the use of the language as distinct from or complementary to knowledge of the code/language system. One of the

criticisms of the structural syllabus is that it is difficult for the learner to see the practical application of what they are learning to real life, especially in the case of the adult learner like the EAS students of this study. Students are motivated when they see the immediate return for their learning.

Since the proposed syllabus is one in which learners' specific needs indicate what concepts and functions the learners will need to express, one may use a functional programme. Munby (1979:2) defines an ESP course in the following terms: "ESP courses are those where the syllabus and materials are determined in all essentials by the prior communication needs of the learner, rather than by nonlearner-centred criteria such as the teacher's or institution's predetermined preference for General English or for treating English as general education." The content of probable utterances of the ESP syllabus here suggests what language forms will be most valuable to students. In a general course it is difficult to determine specific needs. Using a functional syllabus implies that there will be no sequenced teaching of the code but particular forms may be isolated for special attention. Although a complete series of broad categories of communicative functions has not yet been established, an attempt should be made to group functions where possible. A broad category such as *suasion*, for example, may include functions like prohibitions, commands, advice, proposing, suggestions, warning, authorization, permission, and directions.

It is recommended that this part of the speaking programme be implemented during the second and third quarter of the academic year when most of the basic skills like listening will have been completed. Work should be done in small groups, and some components of the functional programme should be linked to the conversation class.

9.4.2 <u>Selection of the material</u>

Coulthard (1979: 139) pointed out in 1979 that the descriptions of language use are incomplete; they still are today. As there are few definitive rules as to the rightness and wrongness of language use, statements about the social appropriateness of language forms ought to be always tentative. Only the most likely forms in a particular situation can be stated. One could use Wilkins' (1976) and Van Ek' (1977) taxonomies of language functions to draw up a table of functions. Students' needs should be utilized to create broad discourse

categories as organising principles that group the different parts of a functional syllabus. These discourse categories serve as indicators of what the outcomes of the syllabus are, e.g. a broad discourse category like *conversational skills* will include functions like *initiating a conversation, joining a conversation, avoiding being mistaken*, etc. While broad categories will emanate from law students' specific needs, one (*socialising*) is a general category. This general category has been included because, even though the thrust here is transactional, that is, conveying information, law students do need some interactional uses of language; they need to establish and maintain social relations as well in order for them to socialize with one another and with others. Belton (1988: 75) criticises what he sees as a tendency of the functional school to overemphasise transactional language at the expense of interactional, and makes a plea for a better balance between the two. This observation also reflects the experience of many Languages for Specific Purposes (LSP) teachers who are, according to McCarthy (1991:137), often told by course participants that it is the unpredictable social talk that throws them rather than talk in their specialist contexts. McCarthy (1998: 67) also points out that "A syllabus is not a methodology, but, rather, reflects a view of language and priorities for teaching" (McCarthy, 1998: 67).

As illustrated below, the various exponents of the functions, i.e. the various ways in which the functions can be expressed, should be specified:

Function	Exponent
Polite disagreement	I see your point but ... Yes, I know but ... Well, to a degree that's true, however ... You're right, but you need to consider ...

The exponents of functions can be realized as isolates as in the above examples, but it would be misleading to assume that each exemplification of function is a single sentence. Sinclair and Coulthard (1975: 21) say that the basic unit of discourse is an "exchange", which is expressed in "moves". A question is, for example, followed by an answer. This minimal

condition is typically elaborated in casual conversation to include a third function, the follow-up, as the following example shows:

Initiation:	What part of Soweto would you be actually in?
Response:	Well, I would be going from Zola to Diepkloof.
Follow-up:	I see yes.

For the specification of a function to be complete, the other components of a communicative event need to be delineated. Each function should be narrowed down to a specific social event with its physical setting, topic, and participants' roles. The topics will also generate the vocabulary, and this is viewed as a better method than word frequency count (Van der Walt, 1982: 470-471). These micro components, however, will be specified in a syllabus design study like this one; they should be specified at the implementation stage.

9.4.3 Criteria for the selection and grading of functions

The following criteria for the selection of language functions are recommended:

(i) The functions should be suitable for a person who has already attained a certain proficiency in the language.

(ii) The functions should be selected on the basis of their relevance in meeting the learners' needs.

(iii) The exponents should be exemplars of language use and illustrate the way the code is realized for naturalistic communication.

Grading of functions is not crucial; however, they should be roughly ordered from the most essential meanings to the most subtle. A cyclical approach can be adopted, with additional exponents and illustrations in various situations included in each cycle.

9.4.4 Methodological implications

As there is no new method for teaching a functional syllabus, it is necessary to discuss a method that can be used in this regard. One can use tape-recorders, television and video-cassettes to gather authentic materials for input. The last two items are important for

providing the visual element, which is the often the main feature of spoken discourse. The language laboratory can be used for drills.

Input may be given via the traditional methodology, i.e. the "Three Ps'" (Presentation-Practice-Production). Phrases which illustrate a particular function or functions can be presented to learners, which they should imitate and memorize. Later dialogues can substitute the phrases. Role-play is another good form for practice. Working in pairs is useful for simulated situations. Lastly, students should be encouraged to speak and write using what they have learned.

A lot of meaning can be conveyed by intonation or prosody in spoken English (cf. 3.5.3.1.ii). McCarthy (1998: 66) observes that analysis of naturalist data should compel us to reassess sentence-grammar models of intonation and models which relegate intonation to imponderables such as "attitude" and "emotions". A combination of awareness-raising and more traditional exercises can bring a discourse sensitive approach to intonation in the classroom. Materials can incorporate facts about language while still offering practical exercises that give learners a feeling of "doing and learning".

McCarthy (1998: 67) also points out that a good deal of what governs discourse is culturally motivated, and cultural awareness is the key to avoiding inappropriate transfer of discourse features across languages and to fostering appropriate transfer. But such transfer is unlikely to occur if input ignores or underplays those very features of language that give the speech its naturalistic flavour. He adds that discourse features, e.g. follow-ups, interruption, transaction boundaries, etc. cannot be taught adequately through the traditional Three P's methodology. He recommends that this method be supplemented by "Three I's" (Illustration-Interaction-Induction), which he defines as follows: "Illustration means looking at real data where possible or at the very least texts carefully concocted on the basis of real data. Interaction involves talk among learners and teachers about language (carried out in L1 if necessary), sharing and forming views, breaking down cultural barriers and stereotypes, etc., in an environment where discourse awareness activities are highlighted (e.g. activities which focus on particular discourse patterns of L1, or comparisons between L1 and the target language). Induction means drawing conclusions about the way in which L2 realises its discourse functions" (McCarthy, 1998:19).

If the "Three I's" method is employed in tandem with a syllabus where language functions and intonational components are discourse sensitive and not merely sentence-based abstractions, then teaching spoken English may have an unexpectedly powerful pay-off in the more rapid acquisition of fluency and naturalistic conversational skills. Such a claim would be in line with the current thinking in second language acquisition, which regards "noticing" as a prerequisite for intake (see 5.6.2.4). But it is what the target for "noticing" is that matters most; if the input is impoverished, there will not be much worth noticing.

9.4.5 The syllabus

A number of functions, which have been divided into six broad conversation categories, are suggested below. Some of the functions may overlap; some may subsume others. A tentative list is also offered from which a selection can be made when the syllabus is implemented.

9.4.5.1 Unit 1: Socialising

Specific outcome

Students should be able to make use of language functions often found in interaction.

Content

Recorded dialogues containing: greetings, introductions, partings, invitations (issuing, accepting, declining), excuses and apologies, compliments and reproaches, gratitude, pleasure, sympathy, hostile and phatic communication, prevarication.

Teaching-learning tasks

* The lecturer explains the social function of language and illustrates it.
* Students listen to dialogues.
* Students imitate and construct dialogues.

Assessment

Role-plays to assess students' ability to express various language functions.

9.4.5.2 Unit 2: Asking questions

Specific outcome

Students should be able to encode three question-types (Jordan, 1997: 194).

Content

* Short video-lectures.
* Exercises based on questions for:

  clarification

  (a) requesting information to be repeated

  (b) requesting additional information

  interpretation check

  (a) rephrasing information (interpreting the speaker's words)

  (b) illustrating given information (using an example as a check)

  challenge

  querying something the speaker has said.

Teaching-learning tasks

* The lecturer explains the importance of asking questions in a lecture.
* Students watch short video-lectures.
* Students analyse short video-lectures for the types of questions they contain.
* Students do role-plays based on three types of questions.

Assessment

Role-plays to assess students' ability to ask the three question-types.

9.4.5.3 Unit 3: Exchanging information and views

Specific outcome

Students should be able to take part in discussions in which information and views are exchanged.

Content

Recorded dialogues containing: questions, opinions, preferences, requests, agreement, disagreement, reasons and purposes, inferring, implying, defining, drawing conclusions, comparisons and contrasts, generalizations.

Teaching-learning tasks

* The lecturer highlights the need to exchange information and views in learning.
* Students listen to short dialogues.
* Students analyse dialogues in the text for ways of giving information and exchanging view.
* Students do laboratory drills.

Assessment

Role-plays to assess students' ability to give information and to exchange views.

9.4.5.4 Unit 4: Suasion

Specific outcome

Students should be able to encode the language functions relating to suasion accurately and appropriately.

Content

Recorded dialogues containing: prohibitions, commands, advice, proposing, suggestions, warning, directions, permission, authorization.

Teaching-learning tasks

* The lecturer explains the importance of suasion and illustrates it.
* Students listen to short spoken texts.
* Students analyse short spoken texts for different forms of suasion contained in them.
* Students do language laboratory drills.

Assessment

Role-plays to assess students' ability to use suasion.

9.4.5.5 Unit 5: Individual functions

Individual conversational functions are legion, so a random collection is included. One of the most important individual conversational functions is reporting. McCarthy (1998: 150) points out that " ... the whole fabric of everyday conversation depends heavily on quoting or referring to the words of others". So while the other functions should not be neglected, reporting deserves a special emphasis.

Specific outcome

Students should be able to encode individual functions in conversational English.

Content

Recorded dialogues containing: reporting, hiding/revealing feelings, expressing certainty/uncertainty, describing people and places, asking for and giving directions, expressing an opinion, and telling a joke.

Teaching-learning tasks

* The lecturer explains the importance of reporting and illustrates it.
* Students listen to dialogues.
* Students analyse a spoken text for individual reporting functions it contains.
* Students imitate dialogues and construct others.

Assessment

Role-plays to assess students' ability to use individual functions, especially reporting.

9.4.5.6 Unit 6: Conversational skills

The purpose of these functions is to make learners' speech sound more English and to eliminate the listening and comprehension problems that students often encounter. They (the conversational skills) should be integrated with the dialogues in units 1-4.

Specific outcome

Students should be able to use and interpret typically English speech features.

Content

A number of speech features and their exponents are specified below:

Speech feature	*Exponents*
Initiating a conversation	I see that you've bought a new car. Have you read the story of ...? (Talking about the weather ...)
Fillers	You see, you know, I mean, well, yes, ehm, uhm, mind you, sort of, etc.
Joining a conversation	Well, anyway, I mean, Sorry to butt in like this, I couldn't help overhearing, Do you mind if I add a few words, etc.
Encouraging people to speak	Tell me what happened, Really!,What did you do? Good for you!, Read it, will you? etc.
Avoiding being mistaken	Please don't misunderstand me, Don't get me wrong, You haven't got the point I think, No ... just let me finish, I'm not implying ..., Now I didn't say that ..., etc.
Correcting people	No, I'm afraid you're mistaken, Forgive me if I keep correcting you, I'm afraid you're on the wrong track, I beg to differ, etc.
Conversational links	Talking about that makes me think of ..., But ... going back to Pule's point, I don't think we've considered the fact that ..., But on the other hand, etc.
Topic recycling	I'd like to come back to that point about ... I'd like to pick up one thing from the previous speaker i.e. ...

	This relates to what has been said before, namely ...

Teaching-learning tasks

* The lecturer explains the value of conversational skills and illustrates it.
* Students listen to a spoken text.
* Students analyse short spoken texts for individual functions contained in them.
* Students imitate dialogues and construct others.
* Students do role-play in which they use conversational skills.
* Students do language laboratory drill.

Assessment

Oral performance in tasks can be assessed.

9.5 Conversation class

9.5.1 Introduction

Talking about Practical English, Van der Walt (1982: 480) maintains that "The conversation class is of vital importance in the Practical English course, and no course should be offered without it. It is a situation where language is the natural outcome and where language can be used for the normal purposes of communication." The same can be said about an ESP course like EAS. Since it is not known for sure how the individual learns a language most effectively (see 5.6.2.1), we should provide learners opportunities to practise their own unpredictable strategies and techniques in language acquisition processes. They will use these to exploit the language that they already possess to acquire the language that they not yet have, to develop their capacity for spontaneous speech and to build up self-confidence in their ability to speak English. The functional programme above differs from a conversational class in that while the former is controlled and done in the language laboratory, the latter is open-ended, focuses on fluency, and can be done in tutorials.

Because the proposed syllabus is a content-based ESP course for first-year law students, one could use the topics used in the students' mainstream courses (see 7.3.2). The conversation

class will provide learners with a certain amount of intake and expose them to the demands of spoken English.

The classes should have a relaxed atmosphere in an informal setting. Students should be assured that it is unnecessary for them to worry about assessment and mistakes. Focus should be on fluency rather than accuracy. If learners are constantly interrupted or fear making a mistake, they will not be able to develop fluency. The lecturer should only note the mistakes and discuss them later in remedial work. Two periods per week should be spent on the conversational class. The number of learners in a group should be 6-8.

The conversation class should be carefully planned in advance. Except for impromptu speeches, a conversation class should have clear outcomes because talk for the sake of talk does not produce the desired outcomes. A variety of activities should be used. Each listener should be an active participant and be required to react to another learner's contribution by, for example, asking questions or repeating what has been said in indirect speech. The activities suggested here are monologues, debates, discussions, role-playing, and problem-solving activities.

9.5.2 Criteria for the selection and grading of topics and tasks in the conversation class

The following criteria for the selection of topics and tasks in the conversation class are recommended:

(i) The topics should be drawn from the learners' mainstream subjects.

(ii) The topics should be of interest to the students.

(iii) The topics should be related to the learners' prior knowledge.

(iv) The tasks should offer learners the opportunity to develop their self-confidence in their ability to speak English.

(v) The tasks should offer enough opportunity for each student to participate actively in the class.

(vi) Some of the tasks should link up with other sections of the course.

Grading can be attained by making the topics and tasks progressively more difficult.

9.5.3 Unit 1 : Monologues 1: Conveying information

A range of language tasks can be practised in a series of conversation classes. In the first class, learners can introduce themselves and each other. Students can be asked to deliver monologues based on certain language functions, e.g. comparison and contrast, explanation, description, instruction, etc. Although the choice of topics can be left to learners, it should be related to their content subjects. The other learners are each required to respond to a monologue by asking questions, asking for further information, confirmation, agreeing or disagreeing, interrupting, etc. (cf. 2.6.2). Other topics can be chosen by the lecturer but they too should be related to the learners' content. Assessment of the monologues might be based on the fluency and confidence shown, and on ability to signpost well.

Specific outcome

Students should be able to convey information fluently and confidently.

Content

Mainstream topics, chosen by the learners or lecturer.

Teaching-learning tasks

* The lecturer explains and illustrates the significance of fluency and confidence in speech.
* Students prepare and deliver monologues.
* The listeners respond by asking questions and commenting.
* The speakers reply briefly to each response.
* The lecturer makes an occasional ruling where there are unresolved disputes.

Assessment

A monologue to assess students' ability to convey information fluently and confidently.

9.5.4 Unit 2: Monologues 2: Signposting

Specific outcome

Students should be able to present a clear and logical talk through signposting.

Content

* Two recorded short talks; one clear and logical, the other not so.
* A list of controversial topics from law.
* A table of useful signposting phrases:

Introduction		
What I'd like	*to do is (to)*	*discuss ...*
I'm going		*talk about ...*
I want		*consider ...*
I intend		*explain ...*
Ordering points		
Listing		Time order
Firstly, ...		*First/To begin with ...*
Secondly ...		*Second/Next/Then ...*
Lastly/Finally ...		*Finally ...*
Transition		
I'd like now to move on to ...		
Turning now to ...		
Moving now to ...		
Having looked at X, let's now consider Y		
Conclusion		
So ...		
We've seen that ...		
In short ...		
To sum up ...		
In conclusion ...		

Teaching-learning tasks

* The lecturer explains the outcome, content, and methodology of the unit.
* Students listen to the talks on the cassette and taking down notes.
* Students compare notes in pairs, focusing on main sections and subsections.

* Each student prepares a short talk (three to four minutes), using signposting.
* Students give their talks in pairs; one listens and takes down notes on the main points and unclear information while the other is talking. The speaker is asked to clarify the unclear information. After he/she has done so, roles are exchanged. Then each member of a pair forms a new pair with a student he/she has not worked with before and starts another monologue.

Assessment

A monologue by each student is assessed.

9.5.5 Unit 3: Impromptu speech

Impromptu speech demands that learners think on their feet and convey their thoughts coherently.

Specific outcome

Students should be able to speak off the cuff and coherently on a topic.

Content

Mainstream topics, chosen by students or the lecturer.

Teaching-learning tasks

* The lecturer explains the significance of impromptu speech.
* Students select pieces of paper from a hat and talk briefly on the topics on them.
* The listeners ask questions on what has been said.
* The speakers reply briefly to each question.

Assessment

An impromptu speech by each student is assessed.

9.5.6 Unit 4: Debates

Students should take part in debates on topics which interest them. The functions of *agreeing* and *disagreeing*, among others, can be reinforced here.

Specific outcome

Students should be able to argue a case.

Content

A number of controversial topics, preferably related to law.

Teaching-learning tasks

* Students prepare for debates at home.
* Students take part in class debates.
* The lecturer manages the debate proceedings.

Assessment

Each student's participation in a debate is assessed.

9.5.7 Unit 5: Role-playing

Role-playing gives learners an opportunity to use their creativity while they practise language use. Where possible, realia should be used.

Specific outcome

Students should be able to play specific roles that relate to law (e.g. in mock trials, in consultation between a client and an attorney, in a car accident scene, etc.).

Content

A handout describing specific situations.

Role cards.

Some realia such as a gavel, magistrate's gown, handcuffs, "exhibits", etc.

Teaching-learning tasks

* The lecturer explains the role-plays.
* Students read the handout and role-cards.
* Students perform the roles of the characters in simulated situations.

Assessment

Pair/group mark allocated for participation in a role-play.

9.5.8 Unit 6: Problem-solving

The students are presented with a social problem and a number of solutions from which they must choose one and defend their viewpoint. One can focus on law-related social problems.

Specific outcome

Students should solve a problem.

Content

* A handout with various problem-solving activities. (An unco-operative noisy neighbour, a refuted warranty claim, breach of an engagement, alleged unfair dismissal from work, etc.).
* A handout with guidelines for solving a problem.

Teaching-learning tasks

* The lecturer explains the guidelines for solving a problem.
* The lecturer demonstrates problem-solving.
* Students read the handout.
* Students use the guidelines to solve problems in pairs and small groups.
* In groups, students analyse a problem and one member of a group writes down the solution and presents it to the class orally.

Assessment

The solution that each presenter gives is assessed.

9.6 Pronunciation

9.6.1 Introduction

One of the things that a practical English course like EAS should do is to improve students' pronunciation of English. However, it should be borne in mind that nowadays learners would rather aim for an intelligible pronunciation that does not erode their identity rather than one than is native-speaker-like. So it would be unwise to aim for the attainment of a perfect pronunciation, although this would be the most intelligible way of speaking (cf. 3.5.2.1). The programme should aim, then, at correcting only those features of South African Black English (SABE) that often interfere with meaning, so that students can acquire an educated South African Black English pronunciation. Lanham (1996: 19-33) has identified one major property (that of stress and intonation) and two lesser points of deviance (vowel length contrast and central vowel quality) that tend to reduce the comprehensibility of SABE (cf. 3.5.2.1). Targeting the former area mainly for encoding and the latter (the diphthongs and consonants that occur in English and not in Setswana and often cause receptive problems to Setswana speakers) mainly for decoding will leave the remaining phonetic constituents of accent largely unaffected, thereby retaining the social and ethnic function of accent as a marker of identity, but improving the communicative effectiveness of SABE both internally and internationally. A price needs to be paid for maintaining an international standard for English. The purpose of the programme should be to achieve a respectable South African Black English pronunciation.

It is recommended that students learn to make use of phonetic script because this will provide them with the correct pronunciation (cf. 3.5.2.1). It is only through a phonetic transcript that features of pronunciation can be clearly demonstrated. However, students should be made aware of sound changes such as assimilation, elision and weak forms that characterise normal discourse.

9.6.2 Selection and grading

The criteria for the selection of pronunciation items are those of difference and difficulty. The majority of pronunciation problems are caused by mother-tongue interference where

there are differences between L1 and L2 (cf. 3.5.2.1). Another cause of difficulty is fact that students also make use of false analogies (cf. 3.5.2.1).

As far as ordering is concerned, Corder (1973: 314) points out that there is no conclusive evidence of an inherent logic of psycholinguistic kind which dictates a particular structure for a phonological syllabus. All that has been done here is to order the items from the general to the specific: from the suprasegmental to the phonemic.

9.6.3 Unit 1: Phonetic script

Specific outcome

Students should be able to use the International Phonetic Alphabets (IPA).

Content

* The International Phonetic Alphabet (IPA) and key words in English.
* A pronunciation dictionary.

Teaching-learning tasks

* The lecturer explains the IPA and illustrates it with key words in English.
* The lecturer demonstrates how to use a pronunciation dictionary efficiently.
* Students listen to a recorded IPA with examples.
* Students match symbols to sounds.
* Students transcribe words in ordinary script to phonetic alphabet and vice-versa.
* Students do language laboratory drills based on the IPA.

Assessment

A written test to assess students' ability to transcribe words in ordinary script into phonetic alphabets and vice-versa.

9.6.4 Unit 2: Vowels

Specific outcome

Students should be able to decode correctly the vowels that typically present problems to the Setswana speaker, especially vowel quality and vowel length.

Content

* An International Phonetic Alphabet (IPA) chart.
* A pronunciation dictionary.
* Examples of the following problems:

  /i/ > /ɪ/ as in seat and sit

  /ɔ/ > /ɒ/ as in court and cot

  /ɑ/ > /ʌ/ as in calm and come

  /u/ > /ʊ/ as in pool and pull

  /ɜ/ > /ə/ as in her and ago

  /e/ > /æ/ as in men and man

Teaching-learning tasks

* The lecturer uses an IPA chart to locate the English vowels.
* Students listen to texts illustrating English vowels.
* Students do language laboratory drills (including minimal pairs) on the English vowels.
* Students do transcription exercises on English vowels.
* Using a pronunciation dictionary, students marks one another's transcription exercises.

Assessment

A transcription test and a listening test to assess students' ability distinguish various vowel length and vowel quality, respectively.

9.6.5 Unit 3: Diphthongs and triphthongs

Specific outcome

Students should be able to decode correctly those diphthongs and triphthongs that often present problems to Setswana speakers.

Content

* Examples of the following sounds:
  - /eə/ (care). The glide should be well noted.
  - /ɪə/ (ear). The glide should be well noted.
  - /ʊə/ (poor). The glide should be well noted.
  - /aʊ/ (cow). Students should note that first sound is longer than the second.
  - /eɪ/ (pay). Students should note that the first sound is longer than the second.
  - /əʊ/ (no). Students should note that the first sound is longer than the second.
  - /ɔɪ/ (boy). Students should note that the first sound is longer than the second.
  - /aɪə/ (fire). Students should note that the first sound is longer than the second.
  - /aʊə/ (sour). Students should note that the first sound is longer than the second.
* An International Phonetic Alphabet (IPA) chart.

Teaching-learning tasks

* Using an IPA chart, the lecturer explains and demonstrates diphthongs and triphthongs.
* Students do transcription exercises based on diphthongs and triphthongs.
* Students do drills on diphthongs and triphthongs in the language laboratory.

Assessment

A listen-and-write test to assess students' ability to decode diphthongs and triphthongs.

9.6.6 Unit 4: Weak forms

A weak form is an alternate pronunciation of a word so reduced in its articulation that it consists of a different set of phonemes. Weak form compounds are words formed historically by the coalescence of weak forms with other words (themselves), usually pronouns or the negative particle (*doesn't*). According to Windsor-Lewis (1985-6: 1), weak form words and weak form compounds are especially important to the ESL learner because they constitute a quarter of all the words which occur in ordinary conversational speech.

Specific outcome

Students should be able to distinguish between strong forms and weak forms and account for the non-use of weak forms where they are expected to be used.

Content

* A list of weak form words in sentences. Examples:

verbs	*does* /dʌz/ > /dəz/ and *must* /mʌst/ > /məst/
connectives	*and* /ænd/ > /ən/; /n/ and *but* /bʌt/ > /bət/
pronouns	*he* /him/ > /hɪm/; /ɪm/ and *us* /ʌs/ > /əs/
prepositions	*from* /frɒm/ > /frəm/; /frm/ and *her* /hɜ/; > /hə/
determiners	*some* /sʌm/ > /səm/; /sm/ and *a* /eɪ/ > /ə/

* A list of weak form compounds in sentences. Examples:

  Weak form coalition: them + selves = /ðəmselvz/; /ðmselvz/

  Weak form and the negative particle: has + not = /hæznt/

* A list of contexts where strong forms are irreducible e.g. to mark contrast, to mark emphasis, to mark tonal variation, because they occur as penultimate words in a sentence, etc.

Teaching-learning tasks

* The lecturer explains and illustrates weak forms and weak form compounds in sentences.
* The lecturer explains and illustrates rule-restriction *vis-a-vis* irreducible weak forms.
* Students listen to recorded texts.
* Students identify weak forms in texts.

* Students transcribe written text with weak and strong forms.
* Students identify irreducible strong forms and give reasons for their irreducibility.

Assessment

A listen-and-write written test to assess students' ability to identify and transcribe weak forms.

9.6.7 Unit 5: Consonants

Specific outcome

Students should be able to decode correctly words with consonants that are likely to present problems to Setswana speakers.

Content

* A list of words containing consonants that do not occur in Setswana:
  - /z/ in zebra
  - /θ/ as in **thumb**
  - /ð/ as in **these**
  - /ʒ/ as in rouge
  - /dʒ/ as in gin
  - /g/ as in girl
* A list of words containing opaque consonant:
  - /s/ and /z/ as in cease and ease; greasy and busy.
  - /θ/ and /ð/ as in **thumb** and **things; loath** and **loathe**
  - /ʃ/ and /dʒ/ as in suspension and fusion; compulsion and television,
  - /tʃ/ and /ʃ/ as in **chin** and **chef**; **cheek, chiffon**
  - /tʃ/ and /k/ as in **chain chasm, chimney, chimera**
  - /g/ and /dʒ/ as in goblin and gibberish, geld and gelignite
* A list of words containing mute consonants:
  - / l/ in calm, film,
  - /b/ in lamb, womb,
  - /n/ in column, solemn
  - /r/ in February
  - /p/ in psalm, psychology

/k/ in knee, knock

/g/ in gnostic, gnarled

* A list of problematic /r/ sounds:

  intrusive /r/

  China and Japan
  Lena and Sue

  linking /r/

  for instance

  four and six

Teaching-learning tasks

* The lecturer introduces and illustrates typical errors of Setswana speakers.
* Students listen to texts containing problem consonants.
* Students do transcription exercises.
* Students do language laboratory drills on problem consonants.

Assessment

A written test to assess students' ability to transcribe correctly the consonants that are problematic to Setswana speakers.

9.6.8 Unit 6: Word-stress and sound changes

Specific outcome

Students should be able to place the stress correctly in words most commonly pronounced incorrectly and note sound changes that inflection causes in some words.

Content

* Individual words of 2, 3, or 4 syllables: *study, develop, and manufacture.*
* Distinctive stress patterns: noun/adjective vs. verb: REbel vs. reBEL, COMpound vs. comPOUND, FREquent vs. freQUENT, SUBject vs. subJECT, PROstrate vs. proSTRATE.
* Suffixation and sound/spelling relationship: *repeat, repetitive; admire, admirable; river, ravine; idolize, idolatry.*

* Compound words, whose stress is often on the first morpheme: *stop-over, jobsheet, footprint.*
* The sound change in -g that results from inflection: long but longer and longest; young but younger and youngest; strong but stronger and strongest.
* A dictionary that indicates how words are pronounced and stressed.

Teaching-learning tasks

* The lecturer explains and demonstrates word-stress and sound changes.
* Students do transcriptions that require them to indicate stress.
* Besides indicating stress, students inflect, compound, and transcribe words.
* Students use a pronunciation dictionary to mark one another's transcription.
* Students do pronunciation drills of various syllable lengths in the language laboratory.

Assessment

A listening comprehension test to assess students' awareness of word-stress sound changes.

9.7 The reading programme

9.7.1 Introduction

The aim of the reading programme is to develop students' reading skills in several ways. First, the programme seeks to develop students' intellectual ability to understand what a text is about. Short texts of approximately 500-1000 words will be studied in detail for this purpose. Secondly, it aims at developing the students' mechanical skills of speed-reading. Efficiency in recognising form and understanding content accelerates the rate of reading (cf. 2.6.3), so the programme will provide regular speed-reading exercises. Thirdly, as critical language awareness is vital at the advanced level, students' ability to study a text critically will be cultivated (cf. 3.5.3.7). Fourthly, the programme will focus on the extension of vocabulary. A number of words and expressions (10-20) should be chosen for learning and using. Lastly, the programme will include Legal English and cover subtopics such as the lexical and syntactical features of Legal English, and the ideology behind this register.

Ideally, classes should consist of small groups (20-25 students) for group work and discussion to occur. One period per week, at least, is recommended. The typical lecture should include an explanatory introduction on the outcome of the lecture, follow-up exercises, and preparation for the next lecture (homework). A cyclical approach is recommended, i.e. past teaching points should be discussed again regularly. It is hoped that the programme will enable students to view reading as a tool for learning and that it will result in their use of deep processing rather than surface processing skills, and better recall.

9.7.2 Selection and grading of reading material

The following criteria are recommended for the selection of reading material:

(i) In order to enhance face validity, each text should be based on one or another of the topics of a law subject.

(ii) The reading materials should be of interest to most students.

(iii) The reading materials should be varied in terms of topics.

(iv) The reading materials should be commensurate to the students' level of proficiency.

(v) The reading materials should be authentic or naturalistic.

(vi) The reading material should be based on multiliteracies like "visuals" (see the diagrams mentioned in 9.7.3.3) and "performances" (see the role-play mentioned in 9.7.3.10).

Grading or ordering of input can be effected by making reading texts progressively more difficult in terms of length, density, contextual clues and familiarity of content. Tasks could also be made progressively more difficult; starting from one side of the spectrum with low cognitively complex demands, few steps required, no requirement of grammatical accuracy, and plenty of help available, to the other end of the spectrum. Van der Walt (1982: 414) says that "At the advanced level, passages are no longer structurally graded, but should be fairly typical of the reading which students may be expected to do."

9.7.3 The syllabus

9.7.3.1 Unit 1: Using the dictionary

Many students do not know how to use a dictionary efficiently. They often use it only for checking spelling. Students will be taught other purposes for which one can use a dictionary. They (the students) will also be taught the symbols used in the dictionary so that they can utilize this resource effectively.

Specific outcomes

Students should be able use a dictionary as a resource in language learning.

Content

* A hand-out on how to use a dictionary.
* An advanced, current English dictionary (e.g. *The Concise Oxford Dictionary of Contemporary English* or *Collins's Advanced Dictionary*).
* A series of dictionary exercises based on the prescribed and recommended law textbooks and other texts.

Teaching-learning tasks

* Pairs share information on how they have used a dictionary before. This information is then shared in groups and in the class.
* Students read the guide to using a dictionary individually.
* Students do dictionary exercises individually or in pairs.
* Students do exercise in pairs on strategies for dealing with difficult words, choosing the correct headword, derivation, figurative and literal meanings, editing with the help of the dictionary (focusing on countable and uncountable nouns, inflections, prepositions, style, idiomaticity, etymology, spelling) speaking with the help of the dictionary (syllabicity, pronunciation, stress).
* The lecturer helps the students to mark the work.

Assessment

A test assessing students' ability to use a dictionary for grammar, spelling, style, pronunciation, idiomaticity, and syllabicity in given exercises.

9.7.3.2 Unit 2: Vocabulary extension

Specific outcomes

Students should be able to create new words and guess the meanings of those they do not know by using various word-formation devices.

Content

* A hand-out of word-formation devices including Greek and Latin affixes and stems, compounding, conversion, derivation, backformation, clipping, blending, and acronym.
* Exercises with texts drawn from students' prescribed books. (Criteria for selection of vocabulary items will be the level of difficulty, frequency, and utility.)

Teaching-learning tasks

* The lecturer explains and illustrates some word-formation devices.
* Students read hand-out of word formation devices.
* Students identify word-formation devices involved in producing words in texts.
* Using the clues of how words are formed, students guess meanings of terms, match items, do crossword puzzles, cloze tests, etc.

Assessment

A test on vocabulary (fill-in-blanks, multiple choice, give meaning of words and expressions, cloze test).

9.7.3.3 Unit 3: Understanding definitions

Specific outcome

Students should be able to identify the typical structure of definitions in their legal texts.

Content

* Legal texts with definitions of concepts such as abortion, fraud, prodigality, etc.
* A handout containing guidelines for recognising a definition.
* A law dictionary and an ordinary dictionary.
* A law textbook.
* Exercises on definitions.

Teaching-learning tasks

* The lecturer explains the importance of definitions in law and uses guidelines in the handout to illustrate typical legal definitions.
* Students identify definitions in a law textbook.
* Students fill in words in incomplete diagrams based on definitions.
* Students compare definitions from specialist and non-specialist dictionaries.
* Students correct common mistakes in definition-writing.
* Students do guided writing of definitions.

Assessment

A written test in which students label the constituents of definitions, and also define some key concepts.

9.7.3.4 Unit 4: Speed-reading

Specific outcome

Students should be able to increase their speed, comprehension and confidence in their reading ability.

Content

Reading passages (preferably related to law).

Teaching-learning tasks

* The lecturer explains the importance of competing with oneself rather than one's classmates in speed-reading.
* The lecturer shows how to determine one's reading speed and comprehension level.

* Students read the first passage and record their individual speed and comprehension level.
* Students do the subsequent speed-reading passages and record their scores.

Assessment

Self-evaluation in which students determine and evaluate their own reading speed.

9.7.3.5 Unit 5: Skimming and scanning

Specific outcome

Students should be able to skim and scan texts to find answers to questions given in advance quickly.

Content

* Skimming and scanning exercises.

Teaching-learning tasks

* The lecturer explains the importance of skimming and scanning.
* The lecturer illustrates skimming and scanning techniques.
* Students do timed skimming and scanning exercises.

Assessment

A timed comprehension test to assess students' ability to skim and scan a text.

9.7.3.6 Unit 6: Intensive reading

Specific outcome

Students should be able to answer correctly referential and inferential reading comprehension questions.

Content

* A list of cohesive devices and their functions.
* Passages from students' reading and law journals.

* Comprehension exercises focusing on referential and inferential questions.

Teaching-learning tasks

* The lecturer explains logical devices and illustrates their cohesive effects in a text.
* The lecturer explains inferential meaning and demonstrates their effect on coherence
* Students identify cohesive devices and their functions within and between sentences and between paragraphs.
* Students write a cloze tests and multiple choice exercises based on cohesive devices.
* Students rewrite incoherent texts and make them coherent.
* Students do comprehension exercises in class and/or at home.

Assessment

A comprehension test based on referential and inferential questions.

9.7.3.7 Unit 7: Sociopragmatics

Specific outcome

Students should be able to detect sociopragmatics of a written text.

Content

* Written interactive texts containing sociopragmatic speech elements such as speech functions (e.g. expressing a hint for something, or expressing a complement), figurative language (especially in metaphors, irony, and understatement), and cultural assumptions like "love is health" as in *It's a sick relationship. Their relationship is reviving;* "love is a journey" as in *Their marriage is off-track. It's on the rocks* .
* Reading comprehension exercises.

Teaching-learning tasks

* Linking the unit to its spoken equivalent, the lecturer illustrates how social rituals and culture can affect meaning.
* Students read the texts and then answer questions.

Assessment

A reading comprehension test, focusing on sociopragmatics.

9.7.3.8 Unit 8: Main ideas and supporting details

Specific outcome

Students should be able to separate the main points from supporting details.

Content

Reading passages from law.

Teaching-learning tasks

* The lecturer demonstrates various ways of stating main ideas; some overtly, others covertly.
* Students do exercises requiring them to give the main ideas verbally or in writing.
* Students discuss their answers to the exercises in pairs/small groups and in class.

Assessment

A written comprehension test to assess students' ability to identify main ideas.

9.7.3.9 Unit 9: Legal English

Specific outcome

Students should be able to distinguish the discourse structure and the lexis that make Legal English different from everyday language and account for the features of the former.

Content

* A hand-out containing cases, Acts and contracts.
* A hand-out containing lexical and syntactic features of Legal English.
* A hand-out on The Plain English Movement.

Teaching-learning tasks

* The lecturer explains and demonstrates the differences between Legal English and everyday English.
* Students identify lexical features of Legal English.
* Students identify syntactic features of Legal English.
* Students give reasons why Legal English is characterised by the features it has.
* Students simplify short texts of Legal English.

Assessment

A comprehension and a paraphrasing test.

9.7.3.10 Unit 10: Summarizing

Specific outcome

Students should be able to summarize a text into one third of its original length.

Content

Various reading passages of about 300 words each.

Teaching learning tasks

* The lecturer introduces and demonstrates summarizing techniques.
* Students read texts and do summarizing exercises.

Assessment

A summary to assess students' ability to condense information.

9.8 Writing

9.8.1 Introduction

The writing course aims at developing students' ability to use English as a means for thinking, for forming concepts, for solving problems, and for writing well. The final product of the writing process should indicate that the students are capable of writing clearly, accurately, and logically and that they observe the conventions of academic writing in the

target language. To obtain this goal, lectures should provide them with the necessary information and practice.

The programme should offer plenty of practice in writing. It should pay sufficient attention to the following important aspects of writing: content, rhetorical organisation, grammar, spelling and punctuation. Regarding content, the writing programme is structured on the basis of themes drawn from mainstream subjects. This approach offers students the opportunity to expand not only their everyday lexicon (cf. 3.5.4.2) but also their subject-related concepts (cf. 7.2.4). Writing should be linked to students' mainstream subjects. The language lecturer should collaborate closely with mainstream lecturers. This kind of writing will engage the students in a meaningful personal learning activity and link the task with reality, and in this way appeal to their pragmatic competence (cf. 1.2).

In 7.7.2 it was pointed out that rhetorical organisation of an essay is a serious problem for many first-year law students, so special attention needs to be paid to this aspect of writing. Students should be taught how to construct cohesive and coherent sentences and paragraphs. They (the students) should be taught the importance of good sentence construction and be reminded that they should observe the rules for good sentences in all their writing. Having revised sentence construction, the programme will introduce the writing of a paragraph. The paragraph is regarded as the basic unit of writing, and the writing programme will begin with a detailed analysis of all aspect of constructing a paragraph. Only when this has been done will extended writing be introduced. It will be done from the viewpoint of writing as a process and emphasise all the stages that are entailed in it.

Since the course has a substantial remedial element to it, the writing programme will be linked to the grammar component (cf. 9.9). Many students' writing is still replete with grammar errors (cf. 3.4). These errors should not occur at the advanced level. The fact that they do require that throughout the course grammar should be taught, feedback be given, and corrections be done. To achieve correctness and avoid undermining students' confidence, writing tasks are controlled and guided at first and then later they are followed by free writing.

Spelling and punctuation should also be taught and remedial work on recurrent errors must be done. The importance of the writers' awareness of their audience has already been mentioned (3.6.2) and so has the importance of accuracy in legal writing (4.6).

Concerning assessment, the lecturer does not need to mark all the assignments. In fact, students should, according to Van der Walt (1982: 432), write a great deal more than is marked. This approach will ensure that students get the required practice. Some essays may be marked meticulously, some selectively (e.g. one paragraph in an essay), while others may not be marked at all (by the lecturer). The diaries/journals may merely be glanced at and signed. Senior student and peer marking can be employed, thus alerting students to the errors in their drafts and giving them an opportunity to practise revising and editing (cf. 9.8.16). The idea is that there should be some monitoring of the amount of writing each student produces for the programme to be successful.

9.8.2 Selection and grading

The following criteria for selection and grading of writing material and tasks are suggested:

(i) Students should be taught the basic principles of good writing first.

(ii) The composition process should involve the creation of meaning which should culminate in the production of a clear and logical composition.

(iii) The content should be subject-specific.

(iv) The content should contribute to the development of critical and logical thought.

(v) The content should engage students in meaningful communication and not be contrived.

(vi) The content should appeal to students' interests.

(vii) The programme should regard writing as a process rather than a product and make a clear distinction between the writer's draft (emphasising brainstorming, creativity and being critical) and the reader's draft (emphasising revising for content and organisation and editing for style, accuracy grammar, spelling and punctuation).

Grading in the course is obtained by teaching from the simple to the complex. It is recommended that every teaching point be controlled or guided first, and then free writing tasks may follow. This approach ensures grading.

9.8.3 Unit 1: Correct sentence construction

Specific outcome

Students should be able to use the basic principles of sentence construction in order to make writing clear.

Content

* Passages containing the most common types of sentence errors that make writing unclear, e.g. sentences with no verbs, sentence fragments, run-on sentences, parallelism, incorrect word order, and L1 interference.
* Sentence construction exercises.

Teaching-learning tasks

* The lecturer introduces and illustrates sentence construction.
* Students read passages containing sentence construction errors.
* Students do exercises requiring them to correct errors related to sentence construction.

Assessment

A sentence construction test to assess students' ability to construct correct sentences. (Sentence construction should be assessed in all the written work that is done in the course.)

9.8.4 Unit 2: The paragraph 1: brainstorming and selecting

Specific outcome

Students should be able to brainstorm and select ideas before they start writing a paragraph.

Content

* A number of topics from law.
* A handout on brainstorming and selection.

Teaching-learning tasks

*	Students read the handout on brainstorming and selection of ideas and the lecturer elucidates.
*	Students brainstorm and select ideas on given topics.

Assessment

An impressionistic marking of students' brainstorms and selections.

9.8.5 Unit 3: The paragraph 2: topic sentences

Specific outcome

Students should be able to write a paragraph containing a good topic sentence.

Content

*	A handout explaining the nature and function of the topic sentence.
*	Topics from law.
*	Paragraphs containing good and bad topic sentences. According to Rodseth, Johanson and Rodseth (1992: 9-40), a good topic sentence should be in a form of a declarative statement. It should not be too general nor too specific, and not too abstract either.
*	Paragraphs with no topic sentences.

Teaching-learning tasks

*	Students read the explanatory handout and the lecturer elucidates.
	Students read the example paragraphs and identify topic sentences in them.
*	Students rewrite topic sentences, turning bad ones into good ones.
*	Students provide topic sentences to paragraph that do not have any.

Assessment

Focal assessment in which marks are awarded only for a topic sentence in a paragraph.

9.8.6 Unit 4: The paragraph 3: paragraph development techniques

Specific outcome

Students should be able to develop their topic sentences by providing their supporting details.

Content

* A handout containing various paragraphs illustrating techniques of paragraph development, e.g. exemplification, comparison, contrast, definition, description, and narration.
* A handout containing paragraphs with jumbled sentences.

Teaching-learning tasks

* Students read the handout and the lecturer elucidates.
* Students re-write the paragraphs with jumbled sentences into coherent texts.
* Students provide details to given topic sentences by using various paragraph development techniques. (The exercises may be controlled and/or guided, and free.)

Assessment

A paragraph is assessed.

9.8.7 Unit 5: The paragraph 4: linking devices

Specific outcome

Students should be able to write a cohesive paragraph by using linking devices.

Content

* A hand-out containing a list of linking devices showing their functions.
* Several well-signposted texts with linking devices.
* Various exercises on linking devices.

Teaching-learning tasks

* Students read the hand-out on linking devices and the lecturer elucidates.
* Students do exercises on linking devices within a paragraph.

Assessment

The use of linking devices in a paragraph is assessed.

9.8.8 Unit 6: The paragraph 5: transitions between paragraphs

Specific outcome

Students should be able to develop a number of paragraphs, linking one paragraph to another by means of linking devices.

Content

* A hand-out containing several paragraph sets, each set forming a coherent text and containing linking phrases/sentences.
* A hand-out containing several paragraph sets, each set forming a coherent text but lacking linking phrases/sentences.

Teaching-learning tasks

* Under the guidance of the lecturer, students read and evaluate the models provided.
* Students do exercises in which they write a number of paragraphs on a topic, paying special attention to links between paragraphs. (Before the lecturer gives free writing, he/she gives controlled and/or guided writing.)

Assessment

A short written test (about three paragraphs) in which students' ability to join paragraphs by appropriate phrases/sentences is assessed.

9.8.9 Unit 7: The paragraph 6: variety in sentence type and length

Specific outcome

Students should be able to write paragraphs with different sentence patterns and lengths.

Content

* A number of model paragraphs containing varied sentence patterns and lengths.

* A number of examples of monotonous paragraphs containing, for instance, only simple sentences, only compound sentences, repeated grammatical constructions and sentences all of the same length.

Teaching-learning tasks

* Students compare paragraphs with varied sentence patterns with those with unvaried sentence patterns.
* Students do exercises on paragraphs with varied sentence patterns. (The lecturer should give controlled and guided writing first and free writing later.)

Assessment

A short writing exercise (about three paragraphs) in which students' ability to vary sentences is assessed.

9.8.10 Unit 8: Argumentative writing 1: awareness of one's audience

Argumentative writing in unit 8-16 is presented from the viewpoint of writing as a process comprising a number of stages. Essays in this category are fairly short; about three pages. Assessment here should be done on the basis of focal and impressionistic marking rather than intensive marking. The latter should be used in evaluating the long essay in unit 17.

Specific outcomes

Students should be able to meet their lecturers' demands regarding academic writing.

Content

* A grid for assessing essays on the basis of content, organization, language and vocabulary.
* Six essays: two above average in merit, two average, and the other two below average.

Teaching-learning tasks

* The lecturer explains the grid for assessment.
* Students read the given essays.

* Using the grid, students assess the essays and give them marks (first individually and later in pairs/small groups. The group should reach a consensus on each assessment).
* Under the lecturer's leadership, the groups compare and discuss the marks they have given to the essays first and then their marks with lecturer's.

Assessment

An impressionistic assessment of the marks that students give to the given essays. The closer they are to the lecturer's, the more credit they are given.

9.8.11 Unit 9: Argumentative writing 2: decoding the rubric

Specific outcome

Students should be able to carry out the instructions contained in a rubric.

Content

* A list of task words and their meanings.
* Past exam paper rubrics, some with quotations, others without.
* Past exam essays, three relevant to the topic and the other three irrelevant.
* A grid for focal marking, based on relevance to the topic only.

Teaching-learning tasks

* The lecturer explains the need to stick to the topic and state one's stance in argumentative writing.
* Students do exercises on understanding task words in a rubric.
* Students do exercises on identifying key words in a rubric.
* Students do exercises on understanding the slant that a quotation often gives to a topic.
* Under the lecturer's guidance, students read and judge if two essays answer a set question and award marks.
* Students assess the other four essays and give them marks. (This done individually first, and later in pairs/small groups.)
* The lecturer also assesses the four essays and gives them marks.
* The lecturer and the class discuss their assessment of the four essays.

Assessment

An impressionistic assessment of the marks students give to the essays. The more the students' marks tally with the lecturer's, the more successful the unit will be said to have been and vice versa.

9.8.12 Unit 10: Argumentative writing 3: brainstorming

Specific outcome

Students should be able to brainstorm a topic before they write on it.

Content

* A set of questions for discussions.
* Law topics for a writing project.

Teaching-learning tasks

* The lecturer explains how brainstorming a topic before one start writing fosters a critical approach.
* Students choose a topic, and in groups, generate ideas on it.

Assessment

An impressionistic marking of the students' brainstorms, in which the lecturer does not pick up every error but awards a mark and makes comments based on overall impression.

9.8.13 Unit 11: Argumentative writing 4: researching the topic

Specific outcome

Students should be able to gather relevant information from primary sources and secondary sources.

Content

* A law textbook as a primary source.
* Secondary sources (e.g. books in the library, encyclopaedias, newspapers, journals, magazines, etc.)

* The topic brainstormed in the previous unit.

Teaching-learning activities

* The lecturer explains the importance of researching a topic in academic writing.
* Students research their brainstormed topic and take down notes.

Assessment

Impressionistic of assessment of the notes taken.

9.8.14 Unit 12: Argumentative writing 5: selection and organisation of ideas

Specific outcome

Students should be able to select and organise ideas when they write an essay.

Content

* An essay topic from law.
* Several essay plans of differing quality on a given topic.

Teaching-learning tasks

* The lecturer explains the need for selecting and organising ideas and gives illustrations.
* Students skim through the essay plans.
* Students assess the essay plans in terms of selection and organization of ideas.
* Students re-plan the bad essay plans.

Assessment

An impressionistic marking of students' essay plans.

9.8.15 Unit 13: Argumentative writing 6: giving two sides to an argument

Specific outcome

Students should be able to structure a balanced argument.

Content

* Three model essays of an argumentative type; one affirming a given topic, one negating it and another posed between the two polar views.

* A list of useful phrases:

  - phrases for making a point (e. g. *It is clear that ...; It should not be forgotten that ...; There is no doubt that ...*)

  - phrases for making a concession (e.g. *It may be thought that ... but ... ; While it is widely accepted that ... we should consider the fact that ...; Although it may seem that ... in fact ...)*

  - phrases for listing (e.g. *first, second, third, lastly.*)

  - phrases for presenting examples (e. g. *If we consider that ..., Taking the case of ... , Suppose/supposing that ..., For instance/example ...*).

  - phrases for concluding (e.g. *In conclusion/to conclude, To sum up, one can say that ...*)

* A number of topics from law.

Teaching-learning tasks

* Lecturer explains the reasons for giving two sides to an argument.
* Students read the model essays.
* Students determine the stance of each essay.
* Students use topics from law to write a long essay (seven pages), focusing on constructing a balanced argument.
* Students assess one another's writing and give feedback.
* Students revise one another's drafts on the basis of feedback given.

Assessment

* Peer evaluation focusing only on balancing an argument and clarity of expression.
* The lecturer does a focal evaluation (Kilfoil & Van der Walt, 1997: 279) of the argument and clarity of expression.

9.8.16 Unit 14: Argumentative writing 7: revising

Specific outcome

Students should be able to revise the content and organization of an essay.

Content

Students' essay drafts begun in the previous unit.

Teaching-learning tasks

* The lecturer explains the difference between revising and editing and gives illustrations.
* Students read and revise one another's essay drafts in terms of content and organisation.

Assessment

Peer or senior students' assessment of the content and organisation of ideas in students' essay drafts.

9.8.17 Unit 15: Argumentative writing 8: editing (language, spelling and punctuation)

Specific outcome

Students should be able to edit for grammar, spelling and punctuation.

Content

* Essay drafts begun in the previous units.
* A dictionary.

Teaching-learning tasks

* The lecturer explains the importance of precision in legal writing and links this to editing an essay.
* Students read one another's drafts and give feedback.
* Using a dictionary, students edit for grammar, spelling, and punctuation.
* The lecturer resolves disputes on corrections that may arise.

*	Students hand in their drafts to senior students for assessment.

Assessment

Senior students do selective marking of the drafts focusing on grammar, spelling and punctuation mistakes.

9.8.18	Unit 16: Argumentative writing 9: editing (quotations, footnotes, and bibliography)

Specific outcome

Students should be able to refer to a source, use footnotes and compile a bibliography.

Content

*	A handout containing guidelines on how to refer to a source, use footnotes, and compile a bibliography.
*	Exercises on the referencing mentioned above.
*	Students' essay drafts begun in unit 10.

Teaching-learning tasks

*	Lecturer explains the guidelines for referencing.
*	Students do exercises on referencing.
*	Students apply referencing techniques to their essay drafts.
*	Students read one another's essays and give feedback.
*	Students hand in their drafts to senior students for assessment.

Assessment

Senior students do selective marking of the drafts, focusing on ability to refer to sources, use of footnotes and compilation of a bibliography.

9.8.19	Unit 17: Writing a long essay

Specific outcome

Students should be able to write a long new essay (about seven page) in a law subject and consolidate all the techniques acquired in the previous writing exercises.

Content

* A past model essay.
* A law topic.

Teaching-learning tasks

* The lecturer presents the model essay and leads discussion about it.
* Students read the model essay.
* The lecturer explains the topic for a research essay and leads discussions on it.
* Students research the essay.
* Students write a rough draft, and then the final draft.

Assessment

Intensive assessment of content, organization, language and vocabulary, and technical aspects (spelling, punctuation, references, footnotes and bibliography) done in collaboration with a law lecturer.

9.8.20 Unit 18: Report writing

Specific outcome

Students should be able to write a concise report of about 350 words on a given topic.

Content

* Principles and methods of report writing.
* Models of reports.

Teaching-learning tasks

* The lecturer explains the importance of report writing for law students.
* Students study the principles and methods of report writing.
* Students investigate a legal problem on campus or in their town/village and then write a report.
* The lecturer guides the students when they write the first report, but in the writing of the subsequent report/s students should not need to be guided.

Assessment

Collaborative assessment by a law and a language lecturer of students' reports.

9.8.21 Unit 19: Letter writing

Specific outcome

Students should be able to write the following letters: a letter to the press, a business letter (complaint, adjustment, enquiry, etc), a formal letter (an application, including a curriculum vitae), and a letter to a client/colleague.

Content

* A hand-out containing a layout of letters and letter writing conventions.
* Models of various letters.

Teaching-learning tasks

* The lecturer introduces letter-writing.
* Students study models of letters, paying special attention to layout and conventions.
* Students write a number of letters; first guided and later free.

Assessment

A letter is assessed.

9.8.22 Unit 20: Informal personal writing

Specific outcome

Students should be able to record their observations of and reflections on language use around them.

Content

* Examples of diary/journal entries.
* Journals or diaries, bought by students.

Teaching-learning tasks

* The lecturer explains the value of keeping a diary/journal and tells the students that, although their recording will be monitored at first, later it should be done independently.
* The lecturer explains the principles and methods of keeping a journal/diary.
* Students peruse diary/journal entries.
* Students keep their diaries/journal. (This is a long-term activity that should be continued beyond first-year.)
* The lecturer or senior students write comments in the students' journals/diaries.

Assessment

Periodical response assessment in which the lecturer and senior students give no numerical grade but only written comments on content.

9.9 Grammar

9.9.1 Introduction

The target group is, generally speaking, exposed to only South African Black English (SABE). Wright (1996: 159) points out that among its aims, Apartheid was meant to keep black South Africans from the modernisation process. Impoverished education for blacks was an enabling condition for disparity between whites and blacks and limited introduction to English was a specific feature of it (see 2.2). When overt political oppression still severely restricted the socio-economic freedom of black South African, it was only natural that less tangible arenas of human activity, such as language, art and culture, should become sites of resistance. Such circumstances encouraged veneration for oppositional (and often covert) linguistic innovation as a legitimate assertion of identity in the face of tyrannical oppression (Wright, 1996: 159). Presently, such linguistic gestures take less constructive aspects. Socio-economic opportunities are opening up; the pull of the developed economy is strong and competition for jobs is fierce. The dominant reality, worldwide, is that standard English is the empowering language of the modern world.

South African Black English is deviant because of blacks' separation from continuous contact with the norms of standard English (2.2). The problem can be addressed to some extent by ensuring that appropriate linguistic models are presented to learners. This does not mean that one should slavishly use British/American Standard English or South African Black English purged of the language textures of the society it serves. According to Wright (1996:156), indigenous expression should be encouraged but, where formal settings are concerned, the models put before the learner should remain as far as possible tied to the language standard, thus encouraging both standard South African English and South African Black English to develop as varieties capable of serving as effective means of national and international communication.

One of the means of acquiring the rules of standard English is through the teaching of grammar (3.5.5). A speaker must acquire linguistic competence for his/her communicative competence to be complete. The subjects have not yet mastered all the grammatical rules of English. The problem is that the rules that have not yet been acquired (e.g. the irregular past tense verbs and 3rd person singular ending in the present tense) are resistant to acquisition and are often learnt late in the acquisition process. One should not expect students to acquire the grammatical system by chance because there is simply no time for this in a one-year course (see 7.2). If we reject random exposure as a means of acquisition, learning must be aided. This intervention can be inductive or deductive. Van der Walt (1982: 445) points out that research has shown that, as neither of the two methods is adequate by itself, both of them should be used and made to supplement each other.

The deductive approach should appeal to the adult learners' intellectual maturity (see 2.4), and would give them metalanguage by which they should gain conscious insight into the material that they have already learned. This means that grammar can be regarded as a liberal study (see 3.5.5). This approach will lend an "academic" component to EAS. However, it runs the risk of merely repeating the secondary school grammar syllabus. Since the course is remedial, it is, in some ways, unavoidable that this should be so. Any remedial course should cover what has been done before. In this case, it is important to cover the subject matter using a structural approach more than a fully communicative one at first. The reason why this is necessary is that the "problem areas" that continue rearing their heads even

at the advanced level need to be eliminated. Repetition and boredom can be minimized by making the course systematic, detailed and challenging.

The inductive approach will help learners with the acquisition of use. The learners' need is not only to acquire the rules of English grammar; they want to use the language correctly and fluently in performance. This suggests the need for practice. Learners should be given as many opportunities as possible to manipulate language as they carry out different communicative functions (see 5.6.2.4). In this way the learners' grammar will not be only intellectual but it will become an internalized, active possession. It is essential that grammar exercises be contextualized so that learners may develop an appreciation of language as communication. The reading materials in the other sections of the course as well as the listening, speaking, and writing programmes in it should also exercise learners' grammatical competence, albeit indirectly.

Because of time constraints, only a limited number of rules can be revised. Most of the learning is left to learners, who should use their natural language acquisition capacity, practical experiences, and awareness of the language to acquire the rest.

One period per week, at least, is recommended for lectures and grammar exercises. Extra language exercises should also be done as homework and as practicals in the language laboratory.

9.9.2 Selection and grading

The following criteria for the selection of content of the grammar component are recommended:

(i) The component should present a general review of the most important aspects of English grammar.

(ii) The selection should be done in structural terms.

(iii) The component should include those structures that are frequently found in Legal English.

(iii) Special attention should be paid to areas of difficulty for Setswana-speaking learners, i.e. areas where there are differences between L1 and L2 should be taken into consideration.

(iv) The most frequent and persistent errors should be revised.

As far as grading is concerned, priority should be given to general and unmarked forms, i.e. simple sentences should be introduced before compound and complex sentences, the simple present tense before this tense is mixed with others, etc. Teaching points, especially difficult ones, should be revised frequently.

9.9.3 Unit 1: The Simple Present and Simple Past tenses

Specific outcome

Students should be able to use the Simple Present and Simple Past tenses correctly.

Content

* The Simple Present (expressing states, events, habits, future, historic present).
* The Simple Past (events taking place before the present, definite time in the past).
* Regular and irregular verbs.

Teaching-learning tasks

* The lecturer introduces the Simple Present and the Simple Past and illustrates them.
* Contextualized exercises.
* Students do practicals in the language laboratory.

Assessment

A grammar test based on the Simple Present and Simple Past tenses.

9.9.4 Unit 2: The Progressive Aspect

Specific outcome

Students should be able to use the progressive aspect correctly.

Content

* The progressive aspect: present and past (temporary happenings, habitual uses, future, repetition of events in limited duration).
* Verbs not normally used in the progressive aspect.

Teaching-learning tasks

* The lecturer introduces the progressive aspect and illustrates its uses.
* Contextualised exercises.
* Students do practicals in the language laboratory.

Assessment

A grammar test focusing on the progressive aspect.

9.9.5 Unit 3: The expression of past time

Specific outcome

Students should be able to express past time in various ways.

Content

* The Present Perfect (time period up to present, results now, indefinite past).
* Present Perfect and Simple Past contrasted.
* Past Perfect (past-in-the-past).
* Present Perfect Progressive (temporary situation leading up to present).
* Past Perfect Progressive (temporary situation leading up to past moment).
* Future in the past (would + infinitive, was/were + infinitive).
* "Used to" (past state or habit now discontinued).

Teaching-learning tasks

* The lecturer discusses and illustrates a few ways of expressing past time.
* Contextualised grammar exercises.
* Practicals in the language laboratory.

Assessment

A grammar test based on the expression of past time.

9.9.6 Unit 4: Future time

Specific outcome

Students should be able to use various ways of expressing future time.

Content

* Shall/will + infinitive (predication).
* Be going to + infinitive (intention, present cause).
* Present Progressive + future meaning.
* Shall/will + progressive infinitive.
* Simple Present + future meaning (future as fact).

Teaching-learning tasks

* The lecturer discusses and illustrates future time.
* Contextualised grammar exercises done orally and in writing, at home and in class.
* Students do practicals in the language laboratory.

Assessment

A grammar test, focusing on the expression of future time.

9.9.7 Unit 5: Mixed tenses

Specific outcome

Students should be able to use mixed tenses. (Although the tenses above have been treated as discrete items, in real life they are not: one usually switches from one tense to another, especially in a legal setting (see 7.2.5).)

Content

A mixture of tenses.

Teaching-learning tasks

* The lecturer discusses and illustrates uses of mixed tenses.
* Students do contextual exercises in class and at home.
* Students do practicals in the language laboratory.

Assessment

Grammar test based on the use of mixed tenses.

9.9.8 Unit 6: Common morphological errors

Specific outcome

Students should be able to use the teaching points in this unit correctly and fluently. As indicated above, adjective (see noun chains in 4.3. xi), prepositions (see 4.2. iv), and the passive (4.3. iii) are important features of Legal English, so they need special attention.

Content

* Adjectives and adverbs.
* Prepositions and phrasal verbs.
* Articles.
* Passive voice.
* Gerund and infinitive.

Teaching-learning tasks

* The lecturer discusses and illustrates common morphological errors.
* Students do contextual exercises in class and at home.
* Students do practicals in the language laboratory.

Assessment

A written assignment on common morphological errors submitted for assessment.

9.9.9 Unit 7: The modal auxiliaries

Specific outcome

Students should be able to use modal auxiliaries accurately and fluently. Modals can be particularly important in law because their use or non-use can distinguish between fact and opinion or the true value of a statement (7.7.2.4.8).

Content

* may/might
* can /could
* will/would
* shall/should
* must
* have to
* ought to
* had better
* need

Teaching-learning tasks

* The lecturer discusses and illustrates some uses modal auxiliaries.
* Contextualised grammar exercises.
* Practicals in the language laboratory.

Assessment

A grammar test on the modal auxiliaries, focusing on their forms and appropriate use.

9.9.10 Unit 8: Indirect speech

Specific outcome

Students should be able to use the indirect speech, because reporting is important in law.

Content

* Direct speech vs. indirect speech.

* Back-shifting rules.
* Auxiliary verbs.
* Introductory verbs.

Teaching-learning tasks

* The lecturer introduces and illustrates the indirect speech.
* Students rewrite both direct and indirect speech exercises in class and at home.
* Students do practicals in the language laboratory.

Assessment

A grammar test, focusing on indirect speech.

9.9.11 Unit 9: Conditional sentences

Specific outcome

Students should be able to use conditional sentences, because a great number of rules and regulations depend on certain conditions in law (see 4.3. iv).

Content

* Generic factual conditionals, habitual factual conditionals, and future predictive conditionals.
* Imaginative conditionals (hypothetical and counterfactual).

Teaching-learning tasks

* The lecturer discusses and illustrates conditional sentences.
* Students do contextual exercises on conditionals in class and at home.
* Students do practicals in the language laboratory.

Assessment

A grammar test based on conditional sentences.

9.9.11 Unit 10: Comparisons

Specific outcome

Since comparing issues is important in law (7.7.2.4.10), law students should be able to use various forms of comparison.

Content

- Comparisons using "than".
- Comparisons using "than" and "as".
- Comparisons using "as" and "like".
- The comparative and the superlative degrees.

Teaching-learning tasks

- The lecturer discusses and illustrates different forms of comparison.
- Students do contextual exercises in class and at home.
- Students do practicals in the language laboratory.

Assessment

A grammar test based on the use of comparison.

9.10 Suggestions for implementation of the syllabus

The proposed syllabus has to be implemented now. Implementation has several aspects to it. Firstly, it involves organisation. The traditional linear model and a cyclical or spiral model are suggested for this purpose. The former divides the syllabus into components which are clearly demarcated and presents them one after another. The sequencing may be done on the basis of level of difficult with the less difficulty components presented before the difficult ones. Alternatively, sequencing may be done on the basis of a needs analysis whereby the most needed components are presented first and the least needed last. In its simplest form, a cyclical or spiral model, according to Corder (1978:297), requires no more than the regular inclusion of "revision" sections into a linear syllabus. In its sophisticated form, it demands returning to some domains of language use that have already been presented and learnt and developing them into deeper or more abstract treatment while integrating them with new

teaching points. Depending on learner needs, lecturers may choose to implement fewer units in some situations but to teach them in more detail than they would otherwise do.

Secondly, implementation implies time. The syllabus does not specify the amount of time that each unit should take to teach. Learner needs and time constraints determine which units to use, what teaching points to select, and how much time should be spent on them. Lecturers may decide, for instance, to omit the teaching of pronunciation, and in their decision to teach conditional sentences, they may decide that, since their students have problems with only the imaginative conditionals, it is only that type that they will teach, and because it is a difficult concept, it will be recycled throughout the course. Nevertheless, the following allocation of periods per week is suggested:

Listening comprehension: 1 period per week in the language laboratory in the first semester only. 1-3 periods may be devoted to each unit of the listening programme.

Speaking: 1 conversation class per week, at least. One period of working in small groups for one semester is recommended for the implementation of the functional syllabus. 2-3 periods may be spent on each unit in this section.

Reading: 1 period per week of working in individually and in pairs and/or in small groups. The units on vocabulary extension and reading speed will be integrated with all the other units.

Writing: 1 lecture period per week. Two periods may be devoted to most of the units. One period may be allocated to relatively simple units like 1 and 2, while more time (four periods) may be allocated to the more complex units like 12 and 13.

Grammar and pronunciation: 2 lectures and 1 and half language practicals in the language laboratory per week. For discussions about grammar and pronunciation to be adequate, each unit may take four periods. Grammar and pronunciation exercises should form the content of the language and laboratory practicals.

This allocation allows for 60 notional study hours of formal contact (including lectures, individual work, pair and group work, practicals, conversation classes and tests) and the same of formal informal contact (including assignments, individual, pair and group tasks, and the keeping of a diary/journal).

Thirdly, implementation requires materials. Materials include the use of law textbooks, law topics (from journals, magazines and newspapers, television, video and the radio) educational excursions (like investigating a law-related problem in society or attending some law-related proceedings) realia (video-cameras, cameras, "exhibits"), and students' journals/diaries. Details will not be given here, because the study is on syllabus design and not on materials design. The former, according to Corder (1973: 153) concerns itself with selecting items for teaching into a course and the latter with teaching and learning procedures. Material designers use the syllabus as a guide for preparing materials for their lessons.

Fourthly, implementation involves methodology. Syllabus design does not specify the methodology to be used. All that could be said here is that a learning-centred approach is recommended. Furthermore, it is proposed that the teaching programme comprise lectures, individual work, pair work, small groups-work, conversation classes and language laboratory practicals.

Fifthly, implementation entails assessment. Students will have to obtain a module/semester mark through continuous assessment. Language lecturers, collaborating with mainstream lecturers (9.8.20), senior students (9.8.18), peers (9.8.16), and the students themselves (see the keeping of a journal/diary in 9.8.22 and speed-reading in 9.7.3.4) can be involved in continuous assessment. This may involve tests, homework, class exercises, tasks, and language laboratory work. The emphasis should not be placed on norm-referenced assessment, that is, assessment in which an individual's performance is compared with that of other individuals'; assessment should be criterion-referenced, that is, students should not be assessed against their colleagues but according to their own mastery of specified objectives. At the end of a module/semester or year students can write examinations.

Information gained from assessment is a useful source of data about the effectiveness of a course or evaluation. Evaluation according to Nation (2000: 10) tries to answer the question,

Is this a good course?

9.11 Conclusion

Chapter 9 specified the syllabus for an ESL course for first-year law students at the University of North-West. The following components were suggested: a listening programme, a speaking programme, a reading programme, a writing programme, and grammar programme. The course entails the integration of all these components in as many units as possible. The specific outcomes, content, teaching/learning tasks, and assessment were indicated in each unit. This list emerged from the general outcomes and the ultimate outcome of the course. The syllabus serves as a checklist to those who design teaching/learning materials for it and implement it in class.

Chapter 10

CONCLUSION

10.1 Introduction

This concluding chapter presents a summary of all the preceding chapters. It refers to the problem statement, the aims of the study, the research method used, and the proposed syllabus. It then discusses limitations and further research. Lastly, it provides a conclusion.

10.2 The proposed course

In proposing the syllabus of this study, a number of factors have been considered. Care was taken that it should be in keeping with recent developments in curriculum design by addressing key components, namely, situational analysis, aims, selection and organisation of content, teaching/learning activities, and assessment. Situational analysis referred to the acquisitional context and considered the national policy of the department of education, especially as it related to nation building and the concept of lifelong learning. It also referred to how the impoverished background and rote-learning practices of the subjects' schools made it difficult for them to meet the academic demands of university. The factors that inhibit language acquisition at the University of North-West as a typical historically disadvantaged tertiary institution were also discussed.

As far as the rationale of the course is concerned, two main aims were mentioned. One focused on the need to equip students with language skills that will make them study successfully. These were listening, speaking, reading, writing, and grammar skills. The other aim focused on preparing students for their law careers. These aims were arrived at through an extensive exploration of learners' needs, involving the target group's profile, consultations, analysis of past exam papers and course outlines, a diagnostic test, interviews, and a survey of practical English courses in South African universities.

The literature review involved exploration of the recent developments in the teaching and learning of English at tertiary level, Legal English, and models of ESP syllabus design. It

(the literature review) suggested that for the proposed course to achieve maximum results, it should be content-based rather than general. This would not only obviate the problem of transfer that a general course often engenders but would also increase the face-validity of the course. The literature review also suggested that the best model to be adopted was a task-based language teaching (TBLT) model because it allowed for a balanced teaching of acquisition and learning, which would be ideal for the target group. The survey indicated that this was common practice in most South African universities. Furthermore, TBLT suited the present government's educational paradigm of outcomes-based teaching. On the basis of this data, a framework for the design of an ESP syllabus was arrived at and used to mount a content-based English course for first-year law students.

The syllabus contains a number of innovations, which are likely to influence some of the existing intervention English courses. It uses various law texts and topics to offer programmes in the following areas: listening, speaking, reading, writing and grammar.

The listening comprehension programme will expose the learner to the language and develop the ability to decode speech of various accents at normal speed. Listening will be active and closely linked to speaking, reading, and writing because while students decode a lecture, they will often have to ask question, read information on a transparency, take down notes, etc. In addition, it will not be limited to interpreting only the information in the spoken text but, for full interpretation, it will also require students to use information outside of the text or sociopragmatics.

The course in spoken English comprises three main components. The first is based on a functional syllabus and aims at enabling students to carry out various speech functions. The second is a conversational class aimed at providing students with opportunities to practise their strategies and techniques of acquiring English. The last is pronunciation in which the native model is only used as a point of reference and an intelligible L2 model as the targeted level of attainment.

The reading programme is intensive and aims at developing the learner's lower-level and higher-level reading skills. This will involve speed-reading, structural knowledge, vocabulary, metacognition, critical evaluation, sociopragmatics, and synthesising information.

The writing course seeks to develop the learner's ability to help students create meaning and write well. It begins with controlled writing, expands later into guided writing, then into free writing.

The grammar courses entail a conscious study of the English code. It involves a series of contextualized exercises and places emphasis on those grammatical areas that are related to law and those that are often problematic to the target group.

Each programme in the syllabus is divided into units, which divide into four parts: the specific outcomes, content, teaching-learning activities and assessment. Although the units occurred separately from one another, their implementation presupposes integration. Implementation is, however, not part of the proposed syllabus. Only suggestions for it are provided.

10.3 Limitations of this study

Firstly, although the proposed syllabus fulfils the target group's needs, the fact that it is an ESP one limits it to a particular group. Moreover, it is based mainly on an almost exclusively black residential campus in a rural setting. These factors render it less generalizable. Secondly, the study considers micro-level applications of syllabus design as something beyond its scope. The validity of a syllabus often lies in the results that it produces through implementation. The proposed course has not been tried and tested in a classroom environment. Thirdly, the scope of the areas of learning covered is not large enough. Computer-assisted language learning was said to be one of the changes that students want in their practical English. Yet there is no component on this in the proposed course. Extensive reading is one of the means through which the target group

can compensate for their lack of exposure to English but time constraints did not allow for its inclusion in the proposed course. Fourthly, time constraints have limited the course to only one year. The deficiencies that students have suggest a remedial course that is longer that one-year and so does the keeping of a diary/journal. Fifthly, the time on which the study is based (from the twilight of the Apartheid era to the dawn of the democratic South Africa) is so fluid that some of the things that are referred may now be dated. Lastly, EAS has still not shed its image problem; it is still seen as an adjunct remedial course. Integrating the course into the law programme more intrinsically will perhaps make it look more relevant to law and reduce its current emphasis of students' deficiencies.

10.4 Future research

The study raises the following possibilities for future research:

(i) Research can be carried out into how the outcomes of the course that have been specified in each unit of the proposed syllabus can be developed into individual periods. This can also involve the specification of the other curricular elements at the micro-level.

(ii) The implementation of the syllabus will necessitate research into the production of teaching and learning materials.

(iii) The problems of the notional syllabus remain unresolved. The descriptions of language use are still incomplete. Thus, selection of functions and their likely situations remains to be researched further.

(vi) Further research into content-based teaching and learning is likely to yield more innovations than this study has been able to cover. An experimental method, for example, can be used in which, by contrasting an experiment and a control group, the effects of EAS on students' performance in their mainstream courses can be measured.

(v) The suggested syllabus is task-based. It remains to be seen if another design or a permutation of designs would yield the same results that this syllabus will yield.

(vi) The emerging South African Black English (SABE) needs to be research and its data-base established, which can then serve as a basis for characterising it.

(vii) EAS and most practical English courses in South African institutions of higher learning last for only one year. Research could be done into whether or not there would be any difference if the course was longer.

(viii) Needs analysis can be still be extended further than it has been in this study. Research can be carried out into finding out the needs of the community or and legal practitioners and their clients regarding the language proficiency of graduate law students.

(ix) The syllabus can adequately be evaluated only after implementation. In terms of a circular curriculum model, the process of syllabus design is an ongoing phenomenon. Any element of the suggested syllabus can still be problematised and researched.

(x) The use of computer-assisted language learning and extensive reading, which could not be part of the proposed course, needs to be researched and its effect determined.

10.5 In conclusion

This study should help in meeting students' academic and communicative needs. It is, in a sense, outcomes-based in that it is strongly applicable in students' everyday lives. The study has, also, aimed to develop a practicable model for the design of teaching/learning experiences that are consistent with the new paradigm that is emerging in Higher Education in South Africa, a new political paradigm based on creating a new morality informed by the need to transform society (including teaching and learning) so that there may be equity, justice, and accountability.

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Appendix A

ENGLISH AND ACADEMIC SKILLS UNIT (EAS)
P/Bag X 2046
MMABATHO 2735
North West Province
SOUTH AFRICA
E-mail pdel@flashnet.co.za
Tel: (018) 389 2053
Fax: (018) 392 5775

WARRANTY

Barlows Goldstar Company, hereinafter the Company, warrants to the original purchaser that the appliance identified on this certificate is free from defects in material or workmanship, under normal domestic use and service, subject to the following conditions:

1. At any time within two years from the date of purchase by the original purchaser, the Company will at its discretion replace or repair without cost to the owner, if necessary through a service agent, appointed by the Company, any part found by the Company to be defective in the appliance provided that:
    - (a) In the case of non-portable appliances, such appliances is in a locality no further than 50 kilometres form the nearest Company Service Division or its appointed agent. Travelling charges beyond this 50 kilometres radius will be for the owner's account.
    - (b) In the case of microwave ovens, such appliance is returned to the nearest Company Service Division or its appointed service agent.
    - (c) Within 12 months from the date of delivery, the microwave oven which, in the opinion of the Company, is faulty or below standard through inferior construction or material.

2. This Warranty is limited to 30 days where, in the opinion of the Company, the appliance has been used "commercially" or for business purposes (including a home industry).

3. The Warranties do not apply to light bulbs, fuses, epoxy coatings, glass/ceramic turntable platter, vitreous enamel or to items where the length of life depends on the amount of use and care given.

4. The Warranties shall apply only to appliances purchased and retained for use in the Republic of South Africa.

The Company shall not be responsible for damage of any kind resulting from incorrect voltages or faults in the house wiring, improper use of the controls, failure to use the appliance in accordance with the operating instruction, general misuse or abuse, replacement of spare parts, maintenance and service necessitated directly or indirectly by wear and tear and for any damage caused by fire, flood, civil disturbances or Act of God.

This Warranty is in lieu of all other warranties, expressed or implied, and of all other obligations on our part. No representative or other person is authorised or permitted to make any Warranty or assume for this Company any liability not strictly in accordance with the aforegoing

This Warranty shall not apply to any equipment which has been tampered with or altered in any way or which has been subjected to misuse, negligence or accident. Or which has the serial numbers altered, defaced or removed.

This guarantee will lapse if any repairs carried out by any person other than Barlows Goldstar Company or any person authorised by Barlows Goldstar Company, or if any unauthorised alteration to this Warranty card is effected.

It is a condition of this Warranty that the Company shall not be responsible for the transportation or other costs involved than those covered by point (1) above. Specifically the Company will not accept any responsibility or liability for consequential loss or damage of any kind caused by or due to failure of operation or malfunction of the appliance.

5. This document together with your original purchase invoice serve as proof of purchase for Warranty claim purchases. Service under Warranty will only be carried out if this certificate together with your purchase invoice is produced.

Failure to produce this certificate and your purchase invoice will result in charge being levied for work done, even if the appliance is still claimed to be in the Warranty period.

Service requested and carried out where no fault is found with the appliance will be charged to the owner's account.

Note: Maintenance services are not covered under the above warranty.

This Warranty is not transferable. This Warranty replaces all common law and other rights and remedies which may otherwise be available to the purchaser.

Retain your invoice together with this certificate as proof of purchase.

Appendix B

ENGLISH AND ACADEMIC
SKILLS UNIT (EAS)
P/Bag X 2046
MMABATHO 2735
North West Province
SOUTH AFRICA
E-mail pdel@flashnet.co.za
Tel: (018) 389 2053
Fax: (018) 392 5775

ASSIGNMENT

This assignment is made the ------------------- day of --------------------------
between ------------------ (hereinafter called "the Debtor" which expression shall
where the context admits if more persons than one are parties hereto of the first part
include each or either or any of them alternatively so that every assurance covenant
5 declaration appointment and agreement by the Debtors herein contained or implied
shall be several as well as joint but shall where joint relate only to property herby
assured which belongs to or can appointed by the Debtors jointly and where several
relate only property hereby assured which belongs to or can be appointed by the
party making such assurance covenant declaration appointment or agreement
10 separately or the first part the party making such assurance covenant declaration
appointment or agreement separately) of the first part (hereinafter called "the
Trustee" which expression shall where the context admits include his
representatives or other the trustee for the time being hereof) of the second part and
the several Persons Companies and Partnership Firms being Creditors of the Debtor
15 whose names and addresses are set forth in the Schedule otherwise (all of which
parties are hereinafter called "the Creditors" which expression shall where the
context admits include the persons respectively deriving titles under them of the
third part *Whereas*:

(1) The Debtor indebted to the Creditors respectively in the divers sums of money
20 set opposite to their respective names in the Schedule hereto (such debts where
more persons than one are parties hereto of the first part being unless otherwise
described in that Schedule the Debtors' joint debts) and to other persons in
divers sums of money and being unable pay the same in full have proposed to
make such provision for the payment thereof as is hereinafter contained:

25 (2) The Creditors have agreed to accept such proposals and to enter into the
covenants on their part hereinafter contained. Now in pursuance of the said
agreement and for the consideration aforesaid This Deed Witnesses and it is
herby declared as follows:

(1) *The* Debtor as Beneficial Owner do hereby convey assign and appoint unto the

30 Trustee (and as to real estate) in fee simple *All* the real and personal estate whatsoever and whosesoever which belongs to the Debtor beneficially (except as follows):

(a) property held by the Debtor for any term of years (not being a mortgage term) or shorter term

35 (b) interest in and charges on land the title to which is registered under the Land Registration Acts

(c) all shares standing in the name of the Debtor which are not fully paid up or to the holding of which some liability is attached

(d) any interests in property which cannot be transferred by this Deed or which

40 cannot be transferred without creating a forfeiture and

(e) the tools of trade (if any) of the Debtor and the necessary wearing apparel and bedding and other personal necessaries of the Debtor and his/her family not exceeding (in the case of each Debtor) the value of ------------------- pounds

And also (by way of conveyance and not of exception) All property whether real or

45 personal which the Debtor now has/have power by deed or writing (otherwise than by Will only) to appoint as the Debtor may think fit together with all books of account vouchers papers and writings relating to the affairs of the Debtor

To hold as to real estate unto the trustee in fee simple and as to personal estate unto the Trustee absolutely *upon trust*:

50 (a) To carry on the business (if any) of the Debtor and to call in collect and receive or sell and dispose of any part to the property either by public auction or private contract with liberty to give time to the payment of any purchase money or take any security for the same or any part thereof and with full power to bring defend compromise or abandon any legal proceedings relating to the trust estate or any part

55 thereof and to give time for the payment of any debts owing to the Debtor and to accept payment thereof by instalments composition or otherwise and to abandon any debts which shall be considered bad and generally to adjust and settle all accounts questions and disputes relating to the trust estate or any part thereof between the Trustee and the Debtor or any other person in such manner and upon

60 such terms as the Trustee shall think fit.

(b) Out of the money to be so realised –

(i) First to pay the expenses of the collection realisation and conversion into money of the said estate:

(ii) Secondly to pay all cost charges and expenses of or incidental to convening and
65 holding any meeting of the Creditors held before the execution hereof and the negotiations therefore and the investigation of the affairs of the Debtor and preparing executing stamping and registering this deed and the execution of the trusts hereof and carrying the same into effect including the professional charges of the Trustee (to which the Trustee shall be entitled in the same manner as if he were
70 not a trustee and had been employed as agent to perform the services rendered by him):

(iii) Thirdly to pay and discharge all claims which would be required by law to be paid in full in priority to other if the Debtor had been adjudged bankrupt on the date hereof:

75 (iv) Subject as aforesaid to divide the residue of the said money rateably amongst the Creditors in proportion to the amounts of their respective debts in like manner in all respects as the said money would be divisible under he law of bankrupt if the Debtor had been on and at the date hereof duly adjudged bankrupt (and where more persons than one are parties hereto of the first part according the law of
80 administration in bankruptcy of the joint and separate estates of joint debtors):

(v) To pay the residue (if any) of the said money to the Debtor according to the respective rights and interests affecting the same.

Appendix C

University of the North West

ENGLISH AND ACADEMIC SKILLS UNIT (EAS)
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DIAGNOSTIC TEST

SECTION A: Responding to a text read

Read the passage below carefully. Then read the questions that follow and answer them in the best way you can. For multiple questions, simply write the question number and the letter of your choice answer next to it. Unless otherwise indicated, all the question carry one mark each.

1. To get an overview of this passage, read the title, the three headings of the subsections, the whole of the introduction and the first sentence of each subsequent paragraph. Write in not more than three lines what the passage is about.

(3)

THE CONCEPT LEGAL SUBJECT

Definition of the law of persons

PAR 1 The law of persons is that part of private law which determines which beings or entities are <u>legal subjects or persons</u>, the way in which legal personality begins and <u>terminates</u>, which different classes of legal subjects are distinguished, and the legal status of each of these classes of persons. The importance of being a person <u>in the eyes of the law</u> lies in the fact that only a person can have rights, duties and capacities and can therefore <u>participate</u> in legal <u>intercourse</u>.

PAR 2 Before the law of persons is discussed in detail <u>a few</u> basic legal concepts should be explained.

Law and rights

PAR 3 The law can be viewed from different angles. <u>On the one hand</u>, <u>it</u> is a system of norms of conduct or rules posited by competent bodies to regulate relations between members of the community in a peaceful and just manner. In this sense we are concerned with the law. Examples of such norms of law are that one should fulfil one's contracts (*pacta sunt servanda*), that one should not cause damage to another, that one should <u>possess</u> a driver's

licence if one drives a motor vehicle on a public road, and so forth.

PAR 4 Viewing the law from another angle, one does not see any norms of conduct or rules, but rather a network of legal relationships amongst human beings (or legal subjects). Here we are concerned with rights. A person has, for example, a right to his own car which all other legal subjects must respect, a right against the other party to a contract that he fulfil his obligations, a right against all other legal subjects to invention which he has patented and a right to his good name not being defamed.

PAR 5 A person's right to a certain object therefore creates obligations for other legal subjects *vis-a-vis* the bearer of the right. Here we are concerned with a dual relationship:

(a) The legal relationship between the bearer of the right and other legal subjects who have to respect his right, that is, the subject-subject relationship, the content of which is a right and corresponding obligation. There is after all no sense in speaking of a right if it cannot be enforced against other legal subjects.

(b) The legal relationship between the bearer of the right and the object of his right, that is, the subject-object relationship. One can only speak of a right if the right against other legal subjects has a bearing on some object which is of material or sentimental value to the legal subject, for example, a right to his motor vehicle against all other legal subjects. Again it would be meaningless to have only a right against others – the right must have a bearing on an object.

PAR 6 The connection between law and right is that the norms of the law determine how far the powers of the bearer of a right extend, in other words, the content and limit of every right. The owner of a car may, *inter alia*, drive his car but he may not do it in such a way that he causes damage to another. The owner of property may build on it, lease it or mortgage it, but he may not dig a trench in his boundary so that his neighbour's land will cave in.

Legal subject and legal object

PAR 7 The norms of law make a basic distinction between *legal subjects* (for example human beings) on the one hand and *legal objects* (for examples animals and things) on the other hand. The term "legal subject", *persona iuris*, means any being or entity that can have rights, duties and capacities. A legal subject, therefore, is any entity which is recognised

as such by the law and to which the law attributes the competency to have rights, duties and capacities. In other words the law confers upon the entity legal subjectivity. A being or entity upon which this capacity is conferred is called a legal subject. The capacity of having rights, duties and capacity is called legal capacity.

PAR 8 The term legal object means any thing or object which has economic values for man and upon which the law has not conferred the competency to have rights, duties and capacities and which can therefore not participate in legal and commercial traffic. A legal object therefore is any object upon which rights and obligations have a bearing but which in itself can never be the bearer of the right or the party burdened by the right.

PAR 9 In legal science the difference between human beings (as examples of legal sujects) on the one hand, and animals or material objects (as examples legal objects on the other hand, lies mainly in the fact that human beings can act and thereby give rise to legal consequences. The legal subject controls and deals with legal subjects and in relation to legal objects. Legal subjects participate in commercial and legal interaction; the "things" with which they deal are the legal objects.

PAR 10 The distinction between legal subjects and legal objects is based on the reality of the human being and his position *vis-a-vis* other human beings and things around him. Law was created by man to regulate his relations with his fellow men and with regard to things. From this it follows that man is in the first place the subject of legal rules and legal relationships and that the things over which man has control are legal objects. This is the point of departure in all developed legal systems . Although all premitive legal systems recognised that man could have rights, obligations and capacities, it required a certain measure of abstraction and theorising to conclude that man is also a legal subject. Indeed, this inference presupposes the evolution of the concepts legal subject and legal object, which evolution took place very slowly.

PAR 11 The Roman jurists knew the concept *persona* but did not know the modern concept of *legal subject*. For them the term *persona* simply meant human being. As man was the only recognised legal subject for the Roman jurists and the difference between man and all other entities is obvious, no theorising or further conceptual development was necessary. Coing (1995) indicates that the word *persona* in Roman law did not correspond to the meaning of our modern "legal subject", but that it was used in a general sense to distinguish between people on the one hand, and things and actions on the other hand. In post-classical Roman law too, no theoretical development of the concept *legal subject* occurred. The word *persona* did not have a specific technical meaning in law but simply indicated man himself. The absence of abstraction, however, did not hamper the development of Roman law at all. During the time of Republic, the Roman jurists also attributed legal subjectivity to other entities apart from man. However, they never developed concepts such as legal subject, legal capacity and legal personality.

PAR 12 In Roman-Dutch law the word *persona* is used in the technical sense of legal subject. Apart from man, the juristic person was also regarded as legal subject. The concept legal subject is well established in our own law and is used to denote any being or entity which can have rights, obligations and capacities.

PAR 13 As opposed to the legal subject we have the legal object, that is, any object over which the legal subject can exercise authority and which constitutes the object of his relationship with other legal subjects. For the Romans the thing, *res*, was the first legal object which was recognised as such. The term initially referred to a corporeal object which physically and spatially constituted a separate unit; for example an animal, tracts of land, furniture and tools. Gradually, as their culture developed, it was recognised that more things could be the objects of rights and duties. The Romans had already acknowledged that the legal subject could have rights to a performance, that is, an act by another legal subject, for example the payment or the purchase price of a thing, or delivery of something bought. Subsequently, it was accepted that a legal subject also had a right to his body, honour , and reputation and, at a later stage, that the legal subject should enjoy protection in respect of the products of his mind, for example the author's literary creation, the inventor's devices and so on.

PAR 14 Today, on the model of the French authors, we distinguish, *inter alia*, between four categories of legal objects, *viz* corporeal things, performances, personality property and

immaterial objects.

(from Cronje, D.S.P. 1994. *The South African Law of Persons and Family Law.* Third edition. Durban: Butterworths. Pp3-6)

SECTION A: Responding to a text read

PAR 7

The information structure of paragraph seven is as follows:

2. (a) An introduction of a two–aspect topic and a discussion of the aspects that has been mentioned first.
   (b) An introduction of the main idea and the discussion of one of its subsidiary ideas.
   (c) An introduction of two principal notions and a discussion of them.
   (d) An introduction of a complex concept, which is then followed by a five–sentence explanation of what it involves.

Choose the option that best expresses the main idea of the paragraphs indicated below:

PAR 8

3. (a) A legal object can participate in legal and commercial transactions.
   (b) A legal object is a person's valuable item, which has got no legal capacity in itself.
   (c) A legal object has been granted the competency to have rights.
   (d) A legal object has relations with rights and obligations, which cannot be denied.

PAR 9

4. (a) The difference between legal subjects and legal objects is that legal subjects can control legal objects.
   (b) The difference between legal object and legal subject is that the legal object cannot act.
   (c) The items that legal subjects deal with are legal objects.
   (d) Legal subjects acquire rights, duties and capacities.

PAR 10

5. (a) Central to law, is the distinction between legal subjects and their possessions, which is lacking in primitive law.
   (b) Modern law makes a distinction between legal subjects and legal objects.
   (c) Primitive legal systems made no distinction between legal subjects and legal objects.
   (d) Primitive law regarded legal subjects and legal objects as distinct concepts.

PAR 11

6. (a) The small evolution of the concept of legal subject during preclassical Rome and postclassical Rome.
   (b) The various citizens of Rome.
   (c) The concept *persona*, and Roman law.
   (d) The Roman jurists' failure to expand the meaning of legal subject, which is unthinkable in law today.

PAR 12

7. (a) Unlike in our law, the meaning of persona in Roman-Dutch law carries a technical meaning.
   (b) The meaning of persona in Roman-Dutch law is derived from our definition of the same term in our own law.
   (c) Just as in Roman-Dutch law, a legal subject in our law has rights, obligations and capacities.
   (d) The meaning of persona in Roman-Dutch law is not the same as that of our understanding of this term.

PAR 13

8. (a) The Roman evolution of the meaning of legal object from denoting the inventor's devices, to performance, to reputation, to products of the mind.
   (b) The Roman evolution of the meaning of legal object from denoting corporeal objects, to delivery of something bought, to reputation, to products of the mind.
   (c) The Roman evolution of the meaning of legal object from denoting corporeal objects, to performances, to a person's body and reputation, and production of the mind.

(d) The Roman evolution of the meaning of legal object from denoting an animal, payment of the purchase price of a thing, honour, to the author's literary creation.

9. In about one line, predict what will be discussed after the last paragraph.

(2)

10. Which function does the phrase "that is" serve in PAR 5 (underlined)?

(a) to justify

(b) to exemplify

(c) to compare

(d) to identify

11. Contrasted with "very few", "a few" (PAR 2, underlined) carries

(a) a negative meaning

(b) a positive meaning

(c) a neutral meaning

(d) a deep meaning

12. According to the first paragraph, how many main topics does the law of persons deal with?

13. The phrase "In the eyes of the law"(PAR 1, underlined) means

(a) as far as law practitioners are concerned

(b) when the law looks at people

(c) according to law

(d) when law is applied mechanically

14. "Intercourse" (PAR 4, underlined) means

(a) suite

(b) debate

(c) career

(d) sex

15. "Party" (PAR 4, underlined) means

(a) an accessory to an action

(b) a social gathering with music, drinking and eating

(c) a person forming one side in an agreement or dispute

(d) a political grouping

16. "Patented" (PAR 4, underlined) means

(a) have the sole right for

(b) made more valuable

(c) difficult to fake

(d) struggled for

17. "good name" (PAR 4, underlined) means

(a) a name that has pleasant sounds

(b) a very uncommon name

(c) holy name

(d) reputation

18. "Traffic" (PAR 8, underlined) means

(a) vehicles moving on a public road

(b) interaction between people

(c) illegal trade in drugs

(d) messages being transmitted

19. The word "subject" (PAR 10 underlined) means

(a) the core of a thing as opposed to its attributes

(b) a field of study

(c) any person living under any government

(d) a matter being dealt with

20. The root, bear, in "bearing" (PAR 8, underlined) means an effect, but in "bearer" (PAR 8, underlined) it means

(a) a device

(b) a servant

(c) a possessor

(d) a machine

21. "On the model of the French authors" (PAR 14, underlined) means that what is said

(a) replicates the thinking of the French authors

(b) has been outlawed by French authors

(c) has been validated by the French authors

(d) has been modelled by the French authors.

22. The passage contains many Latinate words such as *pacta sunt servanda,* which means that one should fulfil one's contracts. Scan the passage and identify five similar words and phrases and indicate what their meanings are. Use the context to deduce meanings.

22. 1

22. 2

22. 3

22. 4

22. 5

23. "It" (PAR 3, underlined) stands for "the law". What do the following words stand for in their contexts?

23. 1 "of which" (PAR 5, underlined)

23. 2 "another" (PAR 6, underlined)

23. 3 "as such" (PAR 7, underlined)

23. 4 "which" (PAR 7, underlined)

23. 5 "this capacity" (PAR 7, underlined)

24. What is the grammatical subject or "doer of the action" of the phrase "Viewing the law from another angle" (PAR 4, underlined)?

25. Which two-word phrase does the word "lies" (PAR 9, underlined) correspond with?

26. In the phrase "thing or object" (PAR 8, underlined), or indicates similarity but in "animals or material objects" (PAG 9, underlined), it indicates difference. Referring to these functions of "or", what does this word mean in the following phrases? (Refer to the paragraphs indicated.)

26. 1 "a being or entity" (PAR 7, underlined)

26. 2 "sentimental or material" (PAR 5, underlined)

26. 3 "lease it or mortgage it" (PAR 6, underlined)

26. 4 "legal subjects or persons" (PAR 1, underlined)

26. 5 "no theorising or further conceptual development" (PAR 11, underlined)

27. "On the one hand" (PAR 3, underlined) introduces a contrast. Later in the passage a six-word phrase that completes the contrast is given. Quote this phrase.

28. Which phrase cannot be substituted for the word "indeed" (PAR 10, underlined)?

(a) in fact

(b) as a matter of fact,

(c) actually

(d) on the contrary

29. Which punctuation mark can be substituted for *viz* (PAR 14, italicized)?

(a) a full stop – (.)

(b) a colon – (:)

(c) a semi-colon – (;)

(d) comma – (,)

30. Bearing in mind context, give the less formal equivalents of the words below (one for each):

30. 1 terminate (PAR 1, underlined)

30. 2 participate (PAR 1, underlined)

30. 3 regulate (PAR 10, underlined)

30. 4 possess (PAR 3, underlined)

30. 5 obligations (PAR 5, underlined)

30. 6 attributes (PAR 7, underlined)

30. 7 consequences (PAR 9, underlined)

Total: 50

SECTION B: Application: essay writing

Should unborn babies have any constitutional rights?

Write an essay of 2-3 pages in which you answer the question above, considering the past and present South African laws on abortion. Although you may use any ideas or experiences you have had, you should refer to the passage on which you wrote the comprehension test at some point or other of your argument. Your essay should follow the following steps:

(i) sketching of some main points and supporting details
(ii) writing of a rough draft
(iii) writing of the final draft

Total: 50

Appendix D

ENGLISH AND ACADEMIC SKILLS UNIT (EAS)
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MMABATHO 2735 Tel: (018) 389 2053
North West Province Fax: (018) 392 5775
SOUTH AFRICA
E-mail pdel@flashnet.co.za

QUESTIONNAIRE FOR FIST-YEAR LAW STUDENTS

It has been observed that one of the best ways of meeting students' needs satisfactorily in the English and Academic Skills (EAS) course is to make this course more relevant to students' needs. The purpose of this questionnaire is to determine first-years' needs so that the practical English course that is being offered for these students can be made as effective as possible. As this information will be confidential, you should feel free to say exactly what you think about EAS and not consider what your lecturer would like to hear you say. Please do not write your name. Where applicable, please make a tick in the box provided and where there is a line, please write the answer.

1. Mention the name of the programme for which you are enrolled ____________________

2. Year in which you first registered as a student at UNW__________________

3. Sex:

male		female	

4. Your age ________________years.

5. What is the language you speak most at home?_________________________

6. Indicate your parents'/guardians' highest educational level below:

	Father/Father figure	Mother/Mother figure
below primary school certification		
primary school certificate		
secondary school certificate		

tertiary qualification		

7. When did you matriculate? 19______

8. Where did you matriculate?

School:____________________________

Town/city or village:_________________________

Province:___________________________________

9. What was the aggregate symbol you got for matriculation examination?______

10. What symbol did you get for your English in the matriculation examination?_________

11. At what level did you do the English matriculation examination?

English first language higher grade	
English first language standard grade	
English second language higher grade	
English second language standard grade	

other (please specify)____

12. When do you use English?

when studying		when socializing		at meetings		at home	

others (please specify) ____

13. Did you do any pre-university or bridging/foundation course before you registered as a student at UNW?

Yes		No	

If so, mention the name of the programme ______________________________________

the name of the institution at which you did the programme ______________________

14. Indicate what kind of student you are:

resident		non- resident	

15. Are you on a bursary/scholarship?

Yes		No	

If so, does the bursary/scholarship compel you to work in a legal environment during holidays?

Yes		No	

16. Mention the subjects you are taking this year:

1.________________________
2.________________________
3.________________________
4.________________________
5.________________________

17. Are you repeating EAS because you failed it ?

Yes		No		Not applicable	

If so, how many times have you failed it?

Never		Once		Twice		More than twice	

18. Why are you taking EAS?

It seems easy to pass.	
I was influenced by people.	
I like studying languages.	
I thought it would be helpful.	
It is a programme requirement.	
It is a bursary requirement.	

other reason (please specify) ______________________________________

19. In terms of your law studies, evaluate your abilities and knowledge of English in the following areas by circling the appropriate number: 1 = good 2 = satisfactory 3 = unsatisfactory

Listening	1	2	3
Speaking	1	2	3
Reading	1	2	3
Writing	1	2	3
Grammar	1	2	3
General vocabulary	1	2	3
Legal vocabulary	1	2	3

20. Of the four major English skills, which are the most important for success in the law subjects you are taking? Number choices 1-4, with 4 as the most important.

___ listening comprehension

___ speaking

___ reading comprehension

___ writing

21 How important are the following components of EAS for your other subjects? Circle the appropriate number according to the following scale:

1 = not important 2 = important 3 = very important

21.1 **Listening**

listening to instructions for classroom tasks	1	2	3
listening to instructions for written assignments	1	2	3
listening to spoken presentations	1	2	3
other (please specify) ______________________	1	2	3

21.2 **Speaking**

participation in discussions	1	2	3
asking questions	1	2	3
giving spoken presentations	1	2	3

	speaking with other students and/ lecturers outside of the classroom	1	2	3
	other (please specify) ______________________	1	2	3
21.3	**Reading**			
	textbooks	1	2	3
	articles in journals	1	2	3
	manuals	1	2	3
	course handouts	1	2	3
	instructions for assignments/projects	1	2	3
	other (please specify) _________________	1	2	3
21.4	**Writing**			
	assignments	1	2	3
	projects	1	2	3
	taking notes in lectures	1	2	3
	answering questions related to part of the textbook	1	2	3
	others (please specify) ________________			
21.5	**Related competences**		1	23
	grammar	1	2	3
	general vocabulary	1	2	3
	legal vocabulary	1	2	3
	spelling	1	2	3
	study skills	1	2	3

22. Indicate how far you agree with each of the following ideas about EAS by circling the appropriate number: 1 = strongly agree 2 = agree 3 = diagree

The content of the course is interesting.	1	2	3
More should be done to help students with speaking.	1	2	3

using study-aids	

others (please specify)____

25. Were you happy with the way EAS was assessed? Please give a reason for your answer.

____

26. When your essays in your law subjects are being marked, would you prefer your lecturers to mark every grammar mistake or would you prefer them to mark only those mistakes that obscure meaning. Please give a reason for your answer. ______________________________

____

27. Mention ONE most important improvement you think should be made to EAS.

____

28. Mention any other improvements that could be made to EAS

____

____

____

Thank you very much for undergoing this interview.

Appendix E

ENGLISH AND ACADEMIC SKILLS UNIT (EAS)
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MMABATHO 2735 Tel: (018) 389 2053
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A STRUCTURED INTERVIEW WITH SENIOR LAW STUDENTS

This structured interview is aimed at eliciting your views as a senior student about the efficacy of the English and Academic Skills (EAS) course. The information gathered here will be of great importance in the current academic restructuring and development processes at UNW. You are requested to be as frank as possible; you should not respond according to what you think will please the interviewer but according to your uncensored thoughts and feelings. All the information given here will be confidential and anonymous. Feel free to ask questions where you do not understand or where you wish a question should be repeated. The interview should last approximately thirty minutes. Do you have any question or comment so far?

1. What is the name of the programme for which you are enrolled?

2. What year of study are you in now?

3. In what year did you take EAS?

   1st semester _______ 2nd semester _______

4. In what year of your law studies were you in when you took EAS?

5. How long did it take you to pass EAS? _____

6. Did you pass all your law programme courses in your first year?

   If not, please mention the name/s of the courses you failed or wrote supplementary examination/s in. ______________________________

   ____

   ____

____

____

7. Do you think that, as a first-year student, you needed some kind of English language course to assist you in your studies? Please give reasons for your answer.

____

8. If EAS had been optional, would you have still taken it?
Please explain your answer. ____

____

9. When you were taking EAS, were its aims clear to you?

____

10. Rank the following three aims of EAS in their ascending order of importance. That is, number 4 should indicate the MOST important aim:

preparing students for efficient and confident use of language	
helping students to pass their law studies	
develop students' logical and critical thinking	
increasing students' general knowledge	

11. Do you think that even after passing EAS in their first year, law students still need language skills in their later years? Please give a reason for your answer.

____

12. Have you found any of the language skills that you were taught in EAS relevant and useful in your law subjects?
Please explain what you found to be relevant and useful. ______________________

____

13. Of the four major English skills, which do you regard as the most important for success in the study of law? Number choices 1-4, with 1 as the most important skill.

____ listening comprehension

____ speaking

____ reading comprehension

____ writing

14. Please indicate how important the following EAS components are for law subjects according to the following scale: 1= very important 2 = important 3 = not important

Listening			
following lectures	1	2	3
following questions/answers in class	1	2	3
listening to spoken presentations	1	2	3
listening to instructions for in-class tasks	1	2	3
listening to instructions for assignments	1	2	3
Speaking			
participating in class discussions	1	2	3
asking questions in class	1	2	3
giving spoken presentations	1	2	3
talking with lecturers during consultations	1	2	3
Reading			
textbooks	1	2	3
articles in journals	1	2	3
manuals	1	2	3
course handouts	1	2	3
instructions for assignments/projects	1	2	3
Writing			
assignments	1	2	3
projects	1	2	3
taking notes in lectures	1	2	3

answering questions related to part of the textbook	1	2	3

Related competences

grammar	1	2	3
general vocabulary	1	2	3
legal vocabulary	1	2	3
spelling	1	2	3
study skills	1	2	3

15. Please indicate how far you agree with each of the following statements about EAS according to the following scale: 1= strongly agree 2 = agree 3 = disagree

The teaching of grammar should be left out.	1	2	3
The content of the course is interesting.	1	2	3
Some instruction should focus on the English needs of law students after university.	1	2	3
EAS is an easy course.	1	2	3

16. In which year of study do you think a practical English course should be introduced?
Why? ____

17. Would you prefer EAS to be a general English course or a content-based English course. In other words, would you like it to be aimed at a general group or at a specific group such as law students, science students , etc.?

18. If EAS were to be content-based, would you prefer it to be linked to one law subject or to the whole first-year law programme? Please give a reason for your answer.

____

19. How many times do you read an academic text of a law subject, say of about ten pages, before you feel you understand it well? ____

20. How many drafts do you make when you write an academic essay? ____

21. What characteristics of the English used in legal documents (e.g. French and Latinate words, and long sentences) do you find problematic?

____

22. Whom do you regard as the most suitable person to teach EAS?

a law lecturer	
a language specialist	
a senior student	
a law lecturer who is aso a language specialist	

Please give a reason for your choice ____

23. What are the three qualities in a lecturer do you value most among the following?

humour	
a good knowledge of the subject	
giving well-strucured input	
good language use	
open-mindedness	
use of transparent criteria for assessment	
concern about students' non-academic lives	
a pleasant personality	

others (please specify) ____

24. Which of the following ways of learning do you prefer? Choose two.

doing tasks from a textbook alone and in groups	
attending lectures	
attending seminars that are directed mostly by students	
doing laboratory exercises	

The course is easy. 1 2 3

Some instruction should focus on the English needs of law students after university. 1 2 3

23. How clear are the aims of EAS to you?

very clear		clear a little		confusing		very confusing	

24. On a 0-100% scale, how would you rate the help that EAS gives you? ______

25. Do you use any of the following techniques to help you learn your work?

	Always	Sometimes	A little	Not at all
planning				
checking				
self-testing				
memorising				
making notes				
underlining				

others (please specify) ____

26. Rank the following means of learning in their ascending order of importance. Number 5 should, in other words, indicate the form of leaning you like MOST.

individual and group tasks	
lectures	
student-led seminars	
study-guides	
computer-assisted learning	

27. Rank the following four aims of EAS in their ascending order of importance. In other words, number 4 should indicate the MOST important aim.

helping students to understand cases	
helping students to speak fluently	

helping students to write grammatically	
helping students to read a law textbook	

others (please specify) ____

28 Would you like EAS to be a general English course or a content-based course. In other words, would you prefer it to be aimed at a general group or to be tailored for a specific group such as law students, science students, etc,?

General English		Content-based English	

29. If you prefer content-based English, would you like it to be linked to a specific subject (e.g. Private Law) or a whole programme (e.g. law programme for first-years)?

subject-linked		programme-linked	

30. Are there any non-academic problems you are encountering presently?

Yes		No	

If so, mention the MOST important one________________________________

31. Mention the ONE most important improvement you think should be made to EAS.

____

32. Mention any other improvements that could be made to EAS.

____

____

____

Thank you for answering this questionnaire

Appendix F

ENGLISH AND ACADEMIC SKILLS UNIT (EAS)
P/Bag X 2046
MMABATHO 2735 Tel: (018) 389 2053
North West Province Fax: (018) 392 5775
SOUTH AFRICA
E-mail pdel@flashnet.co.za

QUESTIONNAIRE FOR UNW LAW LECTURERS

In its ongoing assessment of the academic needs of its first-year students, the English department would like to get as much information as possible on the most relevant and cost-effective ways in which intervention could be effected in this regard. The aim of this endeavour is to maximise students' throughput as well as the output of your faculty and mine. Would you please fill in this questionnaire? All the information given here will be confidential. Where applicable, please make a tick in the square provided and where there is a line, write the answer.

Department____

Number of years you have been teaching law________________________

SECTION A: LISTENING

1. Do your first-years manifest any deficiency in listening skills during lectures?

Yes		No	

If so, do students' listening skills improve during the course?

Yes		No	

2. Do you think inadequate grammar has any negative effect on your first-years' listening skill?

Yes		No		Doubtful		Not applicable	

3. Do you think poor vocabulary has any adverse influence on your first-years' listening ability?

Yes		No		Doubtful		Not applicable	

4. Does students' participation in lectures and seminars indicate that they analyse, synthesize and evaluate input to which they listen?

Yes		No		Doubtful		Not Applicable	

5. Can your first-years take down adequate notes during lectures?

Yes		No		Doubtful		Not applicable	

SECTION B: SPEAKING

6. Can your students formulate and ask questions as frequently as you would like them to do in classes?

Yes		No		Not applicable	

If not, please explain what could be the cause of the problem. ______________________

____

7. Do your first-years use gesture at the expense of verbal expression?

Often		Sometimes		Seldom		Never	

8. Can your students argue a point as often as you would like them to do in class?

Yes		No	

If so, please explain why a possession of conversational skills is necessary for your students.

____

9. Do your first-years ever work in pairs and groups?

Often		Sometimes		Seldom		Never	

10. Do you allow code-switching in your classes?

Yes		No	

If so, please give a reason for your response above. ______________________

____

11. How much importance do you attach to the following abilities in students?

H: High importance
M: Medium importance
L: Low importance
N: No importance

	H	M	L	N
to speak audibly				
to speak comprehensibly				
to start a talk and sustain it				
to voice dissent				
to prevaricate				
to influence the course of talks				
to influence attitudes				

to infer meaning				
to create chances for other to speak				
to interrupt				
to use wit				

12. Do you test students' oral skills?

Yes		No	

If so, how and when is this done? ____

____

SECTION C: READING

13. Do you prescribe any textbooks for first-year students?

Yes		No	

If so, how many? _____

14. How are students expected to use their prescribed texts?

students read an assigned section on their own in a fixed period	
the lecturer explains the main points of the text in lectures	
students use textbooks for independent reference	
the lecturer asks questions to help students understand the text	

Any other method? Please explain. ____

____

15. What additional reading is expected of a first-year student?

journals	
books on short loan	
cases	
contracts	
magazines	
newspapers	

16. Please indicate the proportion of first-years who seem, in your view, to experience the kind of problems described below:

H: A lot
M: Some
L: Very few
N: None

	H	M	L	N
They cannot read graphs and tables.				
They lack vocabulary.				
They lack background knowledge.				
They lack grammar.				
They cannot perceive the argument.				
They cannot separate main from minor points.				
They do not relate their readings to their lives.				
They cannot synthesize information from various sources.				
They do not distinguish fact from opinion.				
They do not grasp concepts.				
They do not read critically.				

Any other problems? Please specify. ____________________

SECTION B: WRITING

17. What type of written assignments do you set for first-year students?

essays	
reports	
formal letters	
defining terms	
short notes	

Any others? Please specify. ____________________

18. If first-years are given essays, are they expected to research the topic in the library?

Always		Sometimes		Seldom		Never	

19. Approximately how long do you expect first-years' essays to be?

____

20. How many assignments do students write in your course during one semester? _______

21. What importance do you attach to the following criteria when assessing written work?

H: High importance
M: Medium importance
L: Low importace
N: No importance

	H	M	L	N
punctuation				
the subject matter				
simple, clear language				
originality				
critical approach to the subject matter				
organization and development of ideas				
grammatical accuracy				
rigour (e.g.scope and specificity)				
presentation/neatness				
proper use of sources				
appropriate style/tone				
range of vocabulary used				
spelling				
punctuation				

Any other criteria? Please specify. _______________________________________

22. Indicate the proportion of first-year students you teach whose written work displays these characteristic defects

H: Most of them
M: Some
L: Very few
N: None

	H	M	L	N
inadequate understanding of the subject				
inability to express themselves				
lack of originality				
no critical approach to the subject matter				
poor organization and development of ideas				
grammatical errors				
lack of rigour (e.g. vague, inaccurate and subjective)				
poor presentation, untidy				
plagiarism				
inappropriate style/tone				
verbosity				
limited range of vocabulary				
poor spelling				
poor punctuation				
poor handwriting				

Any other short-comings in written work? Please specify. ______________________________

____

SECTION D: ENGLISH FOR LAW STUDENTS

23. Do you think law students should be taught legal English?

Yes		No	

If so, please give a reason why they should be. ______________________________

____

24. Rank the following intervention programmes that are aimed at helping first-years with their language and learning skills. Your ranking should be in the ascending order of importance. That is, number four should indicate what you regard as the MOST important option.

a general language and learning skills course	
a subject-linked language and learning course	
a one year foundation course	
a new curriculum that integrates language and content	

25. What should be the aims of teaching Legal English? Tick FOUR.

helping students to understand cases, contracts, textbooks, and articles	
helping students to understand legal discourse	
preparing students for efficient and confident use of language in their careers	
introducing students to main legal concepts	
giving students intellectual stimulation	
enabling students to paraphrase legal discourse into simple English and vice-versa	

26. Do first-years encounter problems with the following features of Legal English?

	Yes	No	Doubtful	Not applicable
French and Latinate words				
long sentences				
unusual grammar				
high level of formality				
words taking on new meanings				
sparse punctuation				
impersonal style				
technical terms				
repetitions				
parallelism				

27. Should legal discourse be simplified for your students?

Yes		No	

Please explain. ____

____

SECTION E: TESTING

28.1 How many in-class tests do first-years write in your course?

First semester _____
Second semester ______

28.2 What form do these tests take?

essays	
short notes	
multiple choice	
short-phrase answers	

Any other? Please specify. ____

29.1 How many take-home assignments/tests do first-years write in your course?

First semester ----
Second semester -----

29.2 What is the nature of these take-home assignments/tests?

essays	
short notes	
multiple choice	
short-phrase answers	

Any other? Please specify. ____

30. Do marks that students get in tests and assignments count towards their final marks?

Yes		NO	

If so, please indicate the proportion. ____
If not, please explain. ____

____

31. What was the students' average pass rate of the subject you teach in the last four years? Please tick the nearest figure. (If your teaching is less than four years, please give your students' average pass in the time you have been teaching.)

25%		30%		40%		50 %		60 %		60%+	

32. Do you think improving students' language skills will increase their average pass rate?

Yes		No		Doubtful		Not applicable	

Please explain. ____

____

SECTION F: GENERAL

33. In which year of study should EAS be introduced?

1st year		2nd year		3rd year		4th year	

34. How long should EAS take?

1 quarter		1semester		1 year		2 years		more than 2 years	

35. Generally, do you consider the language skills your students are taught in EAS to be

more than adequate?		adequate?		inadequate?		very inadequate?	

36. Do you think that even after passing EAS in their first year, many students' language skills remain inadequate in their later years?

Yes		No		Doubtful		Not applicable	

37. Who should teach EAS?

senior law students	
a language lecturer	
a law lecturer	
a law lecturer who is also a language expert	

Please give a reason for your answer above. ____________________________

____

38. Do you think EAS should be a general English course or a subject-linked English course. In other words, should it be aimed at a general group or a specific group such as law students, science students, etc.?

general English		subject-linked English	

Please give a reason for your response above. ____

____

39.1 If it should be content-based, should it be linked to any specific subject (e.g. Private Law, Customary Law, etc.) or to the whole first-year law programme?

subject-linked		programme-linked	

39.2 If subject linked, what should be the link subject? ______________________________

40. Please comment on anything regarding English skills for law students.

____

____

____

Thanks very much for answering this questionnaire

Appendix G

ENGLISH AND ACADEMIC SKILLS UNIT (EAS)
P/Bag X 2046
MMABATHO 2735 Tel: (018) 389 2053
North West Province Fax: (018) 892 5775
SOUTH AFRICA
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A SURVEY OF THE STATE OF PRACTICAL ENGLISH PROGRAMMES AT SOUTH AFRICAN UNIVERSITIES.

The univesity of North-West (formerly The University of Bophuthatswana) is in the process of restructuring its curricula and would like to have information on the nature of language and learning programmes at the universities within the country. Would you please complete the attached questionnaire. If there is somebody else who is more involved in English and academic development than you are, please pass on this survey to that person and ask him/her to complete it. Where applicable, please make a tick in the box provided and where there is a line, write the answer.

NAME OF THE UNIVERSITY______________________________

NAME OF LECTURER__________________________________

TEL. NO.:____________________FAX NO.:_________________

1. Do you offer any Practical English course or its equivalent in your curriculum?

Yes		No	

2. Would you regard your course as a general English course or a subject-linked English course. In other words, is your course aimed at a general group or is it designed for a specific group such aslawstudents, science students, etc.?

general English		subject-linked English	

3. If it is subject-linked, is the course based on any specific subject (e.g. Private Law, Customary Law) or to a whole programme (e.g. a law programme for first-year students)?

subject-linked		programme-linked	

Please mention the link subject/programme ____________________________

4. For what type of students is the course meant?

underprepared ESL students	
first-years ESL students	
students-at-risk	
all first-years	

others (please specify) ______________________________

5. How long is the course?

one term	
one semester	
one academic year	
more than one academic year	

6. Is the course credit-bearing?

Yes		No	

7. Is the course compulsory?

Yes		No	

If not, what motivates students to take the course? ______________________________

8. Where is the course located?

in academic development/support	
in a department/faculty	
in a foundation unit	
in a combination of the above	

other (please specify) ______________________________

9. Who teaches the course?

language specialists	
both language and subject specialists	
language specialists who are also subject specialists	

senior students	

10. What is the major aim of your Practical English course? Tick ONE only. To

enhance students' pass rates	
develop students' literary insight	
develop students' critical thought	
develop students' logical thinking	
prepare students for language demands that will be made on them later in life	
educate students	

other (please specify) ____________________________

11. What are the most important subsidiary, specific aims of your course? Tick FOUR only. To

develop students' social language	
develop students' critical thought	
develop students' logical thinking	
educate students	
teach grammar	
develop students' language skills (listening, speaking, reading and writing)	
to teach students the jargon and discourse of their mainstream subject	
raise students' awareness of the conceptual framework of their mainstream subject	

others (please specify) ____________________________

____

12. What would you say are the students' TWO major deficiencies?

listening/understanding	
speaking	
reading	
writing	
conceptual problems	
grammar	

spelling/punctuation	

Others (please specify) ____

____

13. By means of the numbers 1 (least) 2, 3, 4 and 5 (most) indicate the time the course as a whole devotes to the teaching of the following:

listening/understanding (excluding listening to lectures)	
speaking	
reading	
writing	
grammar	
subject-related input	

14. What proportion of the time spent teaching English involves remedial instruction, i.e. re-teaching points which have not been learned well at school?

10%	
15%	
20%	
25%	
33%	
50%	
50% +	

15. What proportion of teaching time is spent on developmental teaching, i.e. building on what students have already learnt?

10%	
15%	
20%	
25%	
33%	

50%	
65%	
75%	
90%	
90% +	

16. Are students divided into small, tutorial groups for any period?

Yes		No	

16.1 If so, what are the activities in these groups?

problem solving	
speeches	
grammar exercises	
debates	
conversation	
literary analysis and discussion	
role-playing	

other (please specify ______________________________

17.1 Are language practicals (in the language laboratory) included in the course?

Yes		No	

17.2 If so, what do these practicals entail?

drills on pronunciation	
grammar exercises	
listening exercises	
sythesizing information	
writing summaries	

others (please specify) ______________________________

18. Are listening/understanding skills specifically taught?

Yes		No		Incidentally	

19. Which skills does your teaching of listening/understanding seek to develop?

recognizing how sentences relate to one another	
recognizing information structure between paragraphs and in discourse	
separating main points from supporting details	
familiarization with different accents	
inferring meaning	
recognizing different sounds	
recognizing body language used in conjuction with speech	
ignoring unclear sections	
activating prior knowledge	
listening in pairs/groups and pooling information later	

others (please specify)____

20. Is speaking taught specifically in the course?

Yes		No		Incidentally	

21. What is the <u>major</u> aim of teaching speaking in your course? Tick ONE only. To

to teach students how to argue a point in class	
to involve students	
to develop students' broad social skills	
to teach students how to formulate and ask questions in class	

other (please specify) ____

22. What are the <u>minor</u> aims of teaching speaking in your course? Tick FOUR. To develop students' skills in

negotiating meaning (how much and how specific information should be)	
management of interaction (choosing of subject and speaker)	
simplification (ellipsis, formulaic expressions, and filler)	

information routine (describing, comparing, arguing, narrating, instructing explaining)	
typical interactional routines (e.g. party conversation, television interview)	
compensation (self-correction, false starts, repetitions and rephrasing)	

23. If speaking skills are taught in your course, what activities constitute this teaching?

prepared speech	
impromptu speech	
debates	
role-playing	

others (please specify) ______________________________

24.1 Do you attempt to improve the students' pronunciation?

Yes		No	

24.2 If so, how is this done? By means of :

a study of phonetics	
phonetic script	
pronunciation drills	
a study of mother-tongue interference	

other (please specify)______________________________

24.3 If pronunciation is taught in your course, what standard of pronunciation is aimed at?

100% attainment of a local native norm	
an intelligible L2 norm	
Received Pronunciation	
standard American norm	

other (please specify) ______________________________

25. Do you regard these attempts as successful on the whole?

Yes		Doubtful		No		Not applicable	

26.1 Do you distinguish between intensive and extensive reading in your course?

Yes		No	

26. 2 If so, what is the major aim of intensive reading? Choose ONE.

equipping students with various strategies for decoding an academic text	
equipping students with skills for identifying, analysing and recording information	
equipping students with logical and creative thinking skills	
developing students' language awareness	
giving students a means of accessing world knowledge	

26.3 If so, what are the subsidiary aims of intensive reading? Choose FIVE only.

activating and using prior knowledge	
predicting	
understanding sentence structure	
distinguishing main points from supporting details	
understanding discourse structure	
recognizing logical connectors	
recognizing references	
recognizing key words	
understanding concepts	
understanding attitude	
understanding nuances	
separating facts from opinions	
inferencing	

27. If you make a distinction between intensive and extensive reading, what does the latter entail?

____

____

28. Do you teach speed reading directly?

Yes		No	

29. Do you teach decoding of non-linear information (e.g graphs, tables, cartoons, pictures, etc.)?

Yes		No	

30.1 Is the study of literature included in your course?

Yes		No	

30.2 If so, what is the major aim of literature in your course? Tick ONE only.

improve language skills	
develop literary appreciation	
improve reading skills	
develop critical thinking	
expand cultural knowledge	

other (please specify)____

30.3 What are the subsidiary aims of literature in your course? Tick FOUR only. To

improve language skills	
develop literary appreciation	
improve reading skills	
develop critical thinking	
serve as introduction to the study of literature	
develop powers of judgement	
develop powers of expression	
expand cultural knowledge	
offer a good pastime	

others (please specify) ____

31.1 Do you offer any lectures on writing?

Yes		No	

31.2 If so what is the major aim of teaching writing? Choose ONE only. To

consolidate the learning of reading	
create meaning	
socialize students into a literate community	
teach grammar	

other (please specify)______________________________

31.3 If so, indicate the types of writing exercises and the average number of exercises you give per year:

Type of exercise	*Number per year*
paragraphs	
narrative/descriptive essays	
discursive/argumentative essays	
impressionistic writing (diaries, literary writing)	
friendly letters	
formal letters	
letters to the press	
reports	
notices	
minutes	
agendas	
curriculum vitae	
telegrams	
precis/paraphrase	

others (please specify) ______________________________

32. After getting feedback on their first drafts, are students given the opportunity to re-write and hand in revised drafts?

Yes		NO	

33. Do students ever receive feedback on their writing from their peers?

Yes		NO	

34. Are any writing exercises that students do controlled (i.e. the linguistic form is determined by the lecturer)?

Yes		NO	

35. Are some of the writing exercises guided (i.e. the content is determined by the lecturer)?

Yes		No	

36. Do you make use of selective marking, i.e. highlighting some of the mistakes that students make and ignoring others?

Yes		No	

37. How do you teach punctuation?

explicitly		incidentally	

38. How do you teach spelling?

explicitly	
incidentally	

39.1 Do you offer any lectures on grammar?

Yes		No		Incidentally	

39. 2 If so, what is the major aim of this study of grammar? Tick ONE only.

raise students' awareness of the discourse structure of their mainstream subject/s	
provide academic training in a body of knowledge	
increase students' knowledge of English culture	
improve students' reading and writing skills	
raise students' critical language awareness	
aid the study of literature	

other (please specify) ____________________

40. What are the subsidiary aims of the study of grammar in your course? Tick FOUR only. To

raise students' awareness of the discourse structure of their mainstream subject/s	
improve students' listening skills	
improve students' speaking skills	
provide academic training in a body of knowledge	
increase students' knowledge of English culture	
aid the study of literature	
aid the acquisition of writing skills	
aid the acquisition of reading skills	
study grammar for its own sake	
raise students' language awareness	

others (please specify) ______________________________

41. Which of the following ways of giving input do you use?

study guides	
lectures	
seminars	
tutorials	
consultations	

others (please specify) ______________________________

____

42. Excluding literary texts, do you use any prescribed books for your Practical English course?

Yes		No	

If so, please mention their names ______________________________

____

____

43. Please mention any other material/s you use besides the textbook. ______________

44. Has the nature of your course changed in the last five years?

Yes		No	

If so, please specify______________________________

45. 1 How many in-class tests do students write in your course?

first semester ______

second semester _____

45.2 What form do these tests take?

Essays	
short notes	
multiple choice	
short-phrase answers	

other? (please specify)______________________________

46.1 How many take-home assignments/tests do students write in your course?

first semester _____

second semester _____

46. 2 What is the nature of these assigments/tests?

essays	
short notes	
multiple choice	
short-phrase answers	

other? (please specify) ______________________________

47. Do students write any exam in your language course?

Yes		No	

48. Which areas of the course is assessment based on?

listening	

speaking	
reading	
writing	
grammar	
knowledge of a mainstream subject	

others (please specify)____

49. If your students are examined in your language course, what is their average pass rate?

Less than 40%	
about 50%	
about 65%	
above 70%	

50. Does students' final assessment depend on their exam marks as well as on their semester/ year marks, which they obtained through tests, assignments, projects, etc.?

exam marks only	
exam and semester/year mark	

51. If students' assessment is based on semester/year marks and exam marks, what is the proportion of one to the other in your weighting?

____

52. Would you like to add anything about your course that has not been covered by this questionnaire?

____

____

____

Thank you very much for answering this questionnaire.