



TAU FELLOWSHIPS PROJECT REPORT



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THE USE OF LANGUAGE CORPORA TO SUPPORT ACADEMIC LITERACY SKILLS DEVELOPMENT FOR MID-CURRICULUM LAW STUDENTS

1. INTRODUCTION

Words are the tools of a lawyer's trade. In fact, one might go as far as to say that the "[l]aw exists solely in and through language".¹ On a less philosophic note, it is certainly true that lawyers use other texts as contextualisation cues when they interpret and draft legal documents, opinions and articles.² If a law student, therefore, is not able to 'read' these contextualisation cues effectively and adapt their language accordingly they have little chance of success – regardless how much effort they put into their studies. 'Reading' of such cues can be assisted by creating awareness of patterns in legal texts and one way of creating such awareness is through the use of corpora.

A corpus can be defined as a collection of written or spoken material, occurring naturally, stored on a computer, and typically used to carry out some kind of linguistic analysis.³ Such corpora have three characteristics in common: they consist of naturally occurring texts, texts are selected to represent either a language or a variety of a language, and the body of texts is fairly large.⁴ Specialised corpora can play a valuable role linking language to culture and ideology, and various studies have showed the pedagogic value of corpora – especially in teaching language. Corpora have also proved valuable in the context of teaching specialist language to enhance academic writing skills.⁵

¹ Vogel et al 'Computer-Assisted Legal Linguistics: Corpus Analysis as a New Tool for Legal Studies' (2018) 43 (4) *Law & Social Inquiry* 1340 at 1342.

² Bashir Ibrahim, Yunus Kamariah, Abdullahi Aliyu (2018) A Corpus-Based Approach to Studies in Legal Phraseology: An Overview *International Journal of English Linguistics* 8(7) 50 at 51.

³ Alexandra U. Esimaje and Susan Hunston 'What is corpus linguistics?' in *Corpus Linguistics and African Englishes* Alexandra U. Esimaje & Bassey E. Antia (eds) (2019; John Benjamins Publishing Company) at 7.

⁴ Alexandra U. Esimaje and Susan Hunston 'What is corpus linguistics?' at 7.

⁵ Alexandra U. Esimaje and Susan Hunston 'What is corpus linguistics?' in *Corpus Linguistics and African Englishes* Alexandra U. Esimaje, Susan Hunston & Bassey E. Antia (eds) (2019; John Benjamins Publishing Company) at 30.

2. BACKGROUND AND DESCRIPTION OF PROJECT

The UCT UCDG project is aimed at ‘enhancing the teaching and learning of academic literacies through tutor and curriculum development at the undergraduate and postgraduate levels.’ The Legal Writing Project (LWP) is designed to support students’ acquisition of legal writing skills at various levels of the degree and is aligned with UCT’s UCDG project.

Through my involvement in skills teaching at the law faculty, I have observed that students often write in the wrong register and/or struggle to use legal language in an appropriate and effective way. Writing is marred by sentences and paragraphs that clearly try to mimic academic and discipline specific writing patterns but fail to do so effectively. Students also struggle to mimic the patterns used in reasoning and attribution of ideas effectively. In a worst-case scenario this inability to effectively use discipline specific language patterns makes sentences and paragraphs lose meaning entirely. Failing to master and use these patterns may also have ramifications for graduates once outside the university context. It will likely result in those who graduate obtaining lower marks, limiting employment prospects and may undermine a graduate’s ability to engender confidence in a prospective client once they join practice.

As mentioned, the TAU project concept was based on evidence in the literature supporting the role that corpora play in initiating novices into expert knowledge and expert ways of using language. The field of law is well suited to the experiment as it tends to be patterned in word choice, sentence structure and in reasoning and attribution of ideas.

As part of the project, I set out to create a student/novice corpus consisting of writing samples taken from assignments submitted by intermediate year (mid-curriculum) law students; identified an expert corpus consisting of reported judgements; and developed exercises to facilitate interaction with the corpora. These facets were then presented to students using the University’s electronic learning platform.

The aim was to illustrate patterned language use in legal academic writing (expert corpus) to the students, to expose them to high frequency words and phrases used correctly/effectively (expert corpus); and to juxtapose patterns emerging from the expert corpus with those from the learner corpus to facilitate data driven learning, thus improving academic literacy skills among the intermediate year cohort.

Exercises prompted students to compose sentences, using particular words (ie. ‘however’). Students were then asked to search the word in both the expert and novice corpora and to consider how the experts and novices used the word or phrase in turn and were then encouraged to rephrase their sentences based on their observations and to comment on what they had learnt.

Screenshots illustrate what students would have seen:

- I should add that, as a matter of practicality, humanity and common sense, this cannot mean that a local authority is required to wait to act under section 21 until a person becomes seriously in need, **however** close and inevitable that serious need may be, and **however** much the authority reasonably wants to assist at once. ↗
- **However** he regarded these offences as falling within those descriptions as being offences which were particularly grave where the offender's culpability was particularly high. ↗
- This issue **however** did not matter, because all parties accepted that there had been unequivocal acceptance both before and after the proceedings began. ↗
- The mother in this case did **however** agree herself to return for hearings. ↗
- In my view **however** it is absolutely critical for the issue of contact to be determined swiftly. ↗
- Conflict of jurisdiction, and potential enforcement is **however** not determinative. ↗
- Also it must be borne in mind that the father was prepared, **however** reluctantly, for the children to relocate, subject to contact arrangements. ↗
- **However** since Rule 2.40 was not revoked as at 1 March 2005, it may be that the word "in" the matrimonial proceedings is to be construed as meaning "in the cause". ↗
- In her police interview, Ms Haque confirmed **however** that what she had said at court was the truth and that her real concern was that a mentally ill person had not had his proper defence put and had been treated unjustly. ↗
- "She told me **however** that he has always been socially isolated, that he was teased by others, that he had a particular interest in science fiction which he talked about frequently, that his gaze was abnormal and that he would stare in a fixed manner at people and that his language was always formal without the use of colloquialisms or slang expressions at any age. ↗
- It is difficult to conceive that any more relaxed test would be consistent with justice and reasonable commercial expectations, **however** international the arbitration or transnational the principles applied. ↗
- **However** the experts disagreed as to whether the last point had any relevance when considering whether a state had entered into such an agreement. ↗
- This is so **however** full was the evidence before it and **however** carefully deliberated was its conclusion. ↗
- They need not **however** pursue this, since it makes no difference to the result. ↗
- The learned civil court, **however** observed that "liabilities and duties against the defendant can be agitated by the Government of Pakistan" [sic]. ↗

Screenshot 1: Expert Corpus Screenshot

Left context	KWIC	Right context
the Act that would allow for the abuse of human rights by companies cannot be allowed.	However	this understanding of the Act seems to be at odds with the traditional understanding of the role of business
would impede its economic goals and take away from its profit maximization concerns.	However	now it is seen that the Bill of rights has direct horizontal application meaning these rights are enforceable
which allows for a mutually beneficial relationship as alluded to in Section 7 of the Act.	However	the fact that a unitary board system is followed in South Africa, with an optional stakeholder representation
and control its conduct ensuring the promotion of corporate governance principles.	However	in this regard there is unlikely to be a general obligation on directors to consider stakeholder interests
powers for stakeholder interests when acting in their capacity director of the company.	However	when the director is acting in the best interests of the company, it must do so with the required care
to avoid possible personal liability for breaching this duty within a reasonable expectation.	However	a director's consideration for stakeholder interests, corporate governance and human rights abuses
In terms of our current law, section 8(1) does not have direct horizontal applicability.	However	section 8(2) qualifies this applicability by saying it is possible only if and to the extent that it is applicable
to a company is needed in order to align it with the current constitutional framework.	However	it is still within the framework of profit pursuing that these human rights determinations must be made
in the interests of shareholders.	However	section 5(1) of the act requires a purposive interpretive approach with references to the purposes of the
provision that is consistent with the Constitution to be favoured over any that is inconsistent.	However	it has been warned that this does not give courts free reign and consideration must always be given
to the public interest.	However	they may have profited off and had knowledge of a subsidiary of the company or a supplier committing
A company and its directors may not have directly committed a human rights violation.	However	at times it is necessary.
The courts will generally pierce the veil if a company is being used as a	However	there are doubts as to whether this has made our law more certain as the duties set out in section 7
of the Act's aim was to make the law clearer and more accessible to directors.	However	the wording of section 76 restricts the owing of duties to the company and is unclear in regards to whether
this common law principle that directors are to act in the best interests of the company.	However	

Screenshot 2: Novice Corpus Screenshot

Considering examples of the use of 'however' students would be able to see that experts use the word sentence medially and tend not to use a comma following the word. The novice writers use the word sentence initially (almost exclusively) and tend to consistently insert a comma following the word.

Students were mostly positive about the use of the corpora. It was also very interesting to see that students did not always observe what I had expected, but instead were made aware of other nuances in the language that I had not noticed when setting the questions and exercises. This is heartening as it underscores the fact that the platform makes self-learning possible. Students observed:

"I strongly believe that the corpora could be a helpful tool ... because you can make use of them when doing your assignment"; and

"I have also come to notice how important it is that words are used effectively in law."

3. WRITING, LAW AND SOCIAL JUSTICE

Learning professional legal language is challenging and even first language English speakers struggle with this skill. If this is the case, students who are not first language speakers and who arrive at university from less privilege schools and circumstances may struggle even more. Many will have had no exposure to lawyers, the courts or legal language before, making it even more difficult for them to adapt to the expectations of the law faculty when compared to students arriving from comparatively more resourced schools and the challenge of approximating lawyer speak is perhaps higher for them. Because the use of language in law is no less important than substantive material such students may tend to perform below their true capabilities. This in turn results in a differentiation in society reflecting in the ability to do well at university, which is often reflected in the opportunities available to students from less privileged backgrounds *vis as vis* students from more privileged backgrounds. Rather than intervening to redress social differentiation, faculty therefore ends up sustaining it. The TAU project thus attempts to intervene and to prevent faculty from being a vehicle that perpetuates the disparities in social structure in society. By intervening to ensure that disadvantaged students can become optimal performers their prospects may be improved markedly. Additional employment opportunities and specifically employment at top law firms ensures social mobility and the transformation of the profession.

4. CHALLENGES

Student engagement with the corpora brought to light interesting revelations and it is clear that the exercises used to facilitate engagement with the corpora will have to be refined and evolved on a continuous basis. These exercises will also benefit from being informed by more rigorous research. This was not possible given the timeline for this pilot project but will be added as the platform and project grows over time.

5. ACHIEVEMENTS

I am convinced that the project has real potential to improve legal writing skills. It makes conscious the usually subconscious process of assimilating legal language. This more subconscious process requires students to read thousands of pages of expert legal text. Reading at volumes of complex text under pressure poses a greater challenges for slower readers and would tend to disadvantage especially less proficient speakers of the language. Use of the corpora can show students how to read to consciously find patterns in the language so that they are then able to mimic these effectively in their own writing. The platform can be made widely accessible and is not expensive to maintain once built. Students are able to access the exercises and corpora according to their individual needs which can make it a particularly useful companion to them throughout their studies.

Data is at this point too limited to support any definite conclusions regarding impact. However, the pilot showed sufficient promise to justify further work to improve the corpora and exercises and to expand the initial project. It will then be possible to probe the impact of the intervention over time.

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