

AN EXAMINATION OF THE CHALLENGES OF WRITING LAW-RELATED PAPERS

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Abstract

Writing a law-related paper poses a distinct set of obstacles for both researchers and practitioners. These problems include the complexities of legal terminology, the diversity of legal systems and jurisdictions, and the rapid transformation of the legal landscape due to technological advancements and changes in legislation. The aim of this paper is to examine possible challenges and recommend solutions to these challenges. Addressing these issues is critical to preserving the quality and credibility of legal study, cultivating a deeper understanding of the law, and making important contributions to the subject. The paper adopted the doctrinal methodology as it examines these issues and makes recommendations for resolving them, thereby increasing the efficacy and impact of legal writing.

Keywords: Legal Terminologies, Jurisdictions, Transformation, Legal Writings

1.0 Introduction

Legal studies and writing are critical to the global development and improvement of legal systems. It helps to clarify and interpret laws, laying the groundwork for legal practice and judicial decision-making.² Legal

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² Irianto S, 'Legal Education for the Future of Indonesia: A Critical Assessment' (2021)
1(1) *The Indonesian Journal of Socio-Legal Studies* 1

studies contribute to the recognition of gaps in the law, the proposal of remedies, and the anticipation of future legal issues. It also acts as a valuable instructional resource for law students, practitioners, and scholars, supporting knowledge diffusion and encouraging intellectual progress within the legal community. Legal study is extremely important because it ensures that legal systems evolve and improve over time, fostering justice and societal progress. The major goal of this paper is to discuss the numerous issues faced by legal scholars and practitioners.

Legal scholarship plays a vital role in the development and refinement of legal systems worldwide. It contributes to the understanding and interpretation of laws, providing a foundation for legal practice and judicial decision-making. Through rigorous analysis and critical examination, legal scholarship helps to identify gaps in the law, propose reforms, and anticipate future legal challenges.³ It also serves as an essential educational resource for law students, practitioners, and academics, facilitating the dissemination of knowledge and fostering intellectual growth within the legal community.

The significance of legal scholarship cannot be overstated, as it ensures the continuous evolution and improvement of legal frameworks, thereby promoting justice and societal progress. The primary purpose of this article is to explore the various challenges encountered by legal scholars and practitioners when writing about aspects of law. By identifying and analyzing these challenges, the article aims to provide insights and strategies for overcoming them, ultimately enhancing the quality and impact of legal writing. The scope of the article encompasses a wide range of issues, from the complexity of legal language and the diversity of legal systems to the rapid evolution of the legal landscape and the intricacies of the research and publication process. By addressing these topics, the article seeks to offer a comprehensive understanding of the obstacles faced in legal

³ *ibid*

writing and the importance of addressing them to ensure the credibility and effectiveness of legal scholarship when writing about legal issues. Identifying and analysing these issues, the paper hopes to provide insights and solutions for overcoming them, thereby improving the quality and effect of legal writing. The paper addresses a wide range of themes, including the complexities of legal terminology and the diversity of legal systems, as well as the rapid growth of the legal discipline and the complexities of the research and publication processes. The paper hopes to provide a thorough awareness of the challenges encountered in legal writing, as well as the need to overcome them to ensure the legitimacy and effectiveness of legal studies.

2.0 Challenges of Legal Writing

Legal scholars and practitioners must handle these problems with caution while discovering ways to simplify and explain legal language but still preserve its vital rigour and detail. By addressing challenges such as technical jargon, law, and precedent interpretation, and the balance of clarity and precision, the legal community can improve the effectiveness and reach of legal study, making it more inclusive and impactful.

- I. The complexity of legal language** poses significant challenges for legal scholars and practitioners, often acting as a barrier to effective communication and understanding within the legal field. The intricacies of legal terminology, the nuanced interpretation of statutes and precedents, and the need for clarity and precision in legal writing are all critical issues that must be addressed to enhance the accessibility and impact of legal scholarship. The complexity of legal language is a double-edged sword. While it ensures precision and comprehensiveness, it also creates barriers to accessibility and understanding.

The legal language contains a lot of technical jargon and specialised vocabulary that non-specialists may find difficult to

understand.⁴ This technical jargon, while required for clarity and accuracy, frequently creates an isolating environment in which only those well-versed in the legal lexicon can fully interact with the material. Critics claim that this limitation hampers the democratisation of legal information by making it inaccessible to the general public as well as legal experts from various jurisdictions or specialisations. To address this, some urge for the simplification of legal terminology, suggesting the adoption of plain language principles to make legal writing more understandable while maintaining accuracy. Opponents argue that such simplicity reduces the clarity and accuracy required in legal speech, potentially leading to misinterpretation and uncertainty.⁵

Interpreting statutes and precedents is another area where the complexity of legal terminology causes difficulties. Legal materials are frequently constructed in a way that demands extensive contextual and historical knowledge to interpret effectively. The precise language employed in statutes and the intricate reasoning in judicial rulings necessitate a high level of knowledge to go through. Advocates of keeping this complexity believe that it is necessary for capturing the entire intent of legislators and judges, as well as ensuring that legal concepts are consistently and equitably applied. They argue that reducing this terminology may result in the loss of crucial legal differences and complexities. Critics claim that this complexity might result in inconsistent interpretations and judicial rulings, causing ambiguity and unpredictability in the law. They advocate for clearer legislative drafting and more

⁴ Bhatia VK, 'Designing English for Legal Communication Programmes: Exploiting Legislative Genres' (2023) 36(4) *International Journal for the Semiotics of Law-Revue internationale de Sémiotique juridique* 1883-1896

⁵ *ibid*

straightforward court rulings to increase transparency and accessibility.

Ensuring clarity and precision in legal writing is a recurrent task made more difficult by the inherent complexity of legal language.⁶ Legal documents must be carefully crafted to prevent ambiguity and ensure that legal arguments and positions are communicated. The need for precision frequently results in lengthy and complex phrases, heavy use of qualifiers, and dense formatting, all of which can impair reading. Advocates for legal writing reform emphasise the importance of balance, emphasising that precision should not come at the expense of intelligibility. They recommend using more streamlined writing styles that preserve detail and accuracy while boosting readability and accessibility. Traditionalists, on the other hand, say that the current degree of complexity and profundity is essential for safeguarding the integrity of legal reasoning.

II. Existence of different Legal Systems and Jurisdictions.

Bridging many legal systems and jurisdictions is a key difficulty in legal scholarship. The complexity stems from the need to assess various legal systems, resolve heterogeneity in legal norms and practices, and push for harmonisation whenever practicable.⁷ Managing the issues offered by different legal systems and countries requires extensive knowledge of comparative law, respect for variations in legal standards and practices, and deliberate approaches to harmonising laws. Overcoming these obstacles is critical for developing legal

⁶ Choi JH, 'Measuring Clarity in Legal Text' (2024) 91 *University of Chicago Law Review* 1

⁷ Liu J and others, 'Legal Systems, National Governance and Renewable Energy Investment: Evidence from Around the World' (2021) 32(3) *British Journal of Management* 579-610

study and creating a more connected and coherent global legal ecosystem.

Legal norms and procedures differ greatly between jurisdictions, affected by cultural, historical, and social considerations. This variety presents significant challenges for legal scholars who must comprehend and explain the variations. The absence of uniformity can make it difficult to apply legal ideas consistently, complicating efforts to develop universally applicable legal frameworks.⁸ Scholars must overcome these disparities to give accurate and useful legal analysis. Comparative law is concerned with analysing and contrasting legal systems to understand their differences and similarities. This is critical for identifying best practices and opportunities for improvement. Scholars, on the other hand, confront problems such as language hurdles, different legal terminology, and contextual changes, which can all have an impact on the accuracy and relevance of comparisons. Effective comparative analysis necessitates a thorough understanding of several legal systems as well as the capacity to combine data from many sources.

The goal of law harmonisation is to promote consistency across distinct legal systems, thereby enabling international collaboration and minimising legal confusion. However, attaining harmonisation is difficult due to the rooted character of legal traditions and the sovereignty of jurisdictions.⁹ Efforts to harmonise laws must strike a balance between respect for local legal identities and the requirement for worldwide legal uniformity. Legal scholars play an important role in arguing for

⁸ Osiejewicz J, 'Transnational Legal Communication: Towards Comprehensible and Consistent Law' (2020) 25(2) *Foundations of Science* 441-475

⁹ *ibid*

and establishing frameworks that encourage harmonisation while also recognising and appreciating local differences.

III. Frequently Changing Legal World. If the law and how it was conducted didn't change, our institutions would become archaic, dysfunctional, or worse, extinct. It is a safe assertion that our society currently lives in "the modern age" where technological, medicinal, and societal boundaries have been pushed and even broken. Now, the legal system faces yet another, and quite possibly its toughest opponent yet ... how to evolve for our time. Technological innovations, such as artificial intelligence and blockchain, have an enormous effect on the legal area, generating new legal concerns and redefining legal processes.¹⁰ Legal experts must stay current on these technologies to address their legal impacts properly. Legal experts must constantly study and react to changing legislation and case law. Keeping up with these changes is critical for accurate legal analysis and current study. New legal challenges, such as data privacy and cybercrime, arise regularly, forcing experts to shift their focus and approaches.¹¹ As our world continues to evolve, so too has the Constitution, governmental functions, and how lawyers interact with these institutions. With the ever-changing technological field, governments will utilize and implement the Constitution in new ways that future lawyers will need to adapt to, such as broader knowledge of various areas of study, seeing as how more documents than ever before

¹⁰ Webb J, 'Legal Technology: The Great Disruption' in *Lawyers in 21st Century Societies* (2022) 2, 515-540

¹¹ *ibid*

are being digitized and made public.¹² Adaptability is critical to ensuring the relevance and impact of legal research.

IV. Harmonising Theory and Practice. Harmonised and uniform international laws are now being spread across different jurisdictions and fields of law, bringing with them an increasing body of scholarship on practical problems and theoretical dimensions. Harmonisation seeks to effect an approximation or coordination of different legal provisions or systems by eliminating major differences and creating minimum requirements or standards.¹³ Harmonisation can be seen as a step towards unification and, in a way, harmonisation aims or strives towards unification. The process by which two or more states, sometimes under the auspices of an interstate or international organization, change their legislation relevant to some area of common concern to conform their statutes and to facilitate compliance and enforcement across borders. Effective legal studies require the integration of theoretical concepts with practical applications. This delicate balance guarantees that legal ideas are anchored in real-world circumstances and can guide practical legal solutions.¹⁴ There is frequently a distinction between academic legal research and actual legal representation. Bridging this gap requires developing interactions between academics and practitioners to produce theoretically sound and practically valuable research. Legal scholars must think about the practical ramifications of their

¹² Kagan RA, 'American Lawyers, Legal Culture, and Adversarial Legalism' in Lawrence M Friedman and Rogelio Pérez-Perdomo (eds), *Legal Culture and the Legal Profession* (Routledge 2021) 7-51

¹³ Gargantini M, 'Regulatory Harmonization and Fragmentation in the Capital Markets Union' in Kristina Riedl and Anne Peters (eds), *Balancing Unity and Diversity in EU Legislation* (Edward Elgar Publishing 2024) 135-154

¹⁴ *ibid*

ideas, ensuring that their work tackles real-world legal issues and gives useful insights for lawyers.

V. Ethical Considerations in Legal Writing: Maintaining secrecy and honouring privilege is critical in legal writing. Scholars must handle these ethical considerations carefully to secure sensitive information and maintain professional standards. Ethical legal writers will consciously consider how their writing may be influenced by their views; how their writing might affect others; and how it must comply with the norms and conventions of the discourse community and the fundamental professional ethical obligations of the legal profession.¹⁵ Avoiding plagiarism and maintaining uniqueness are important ethical obligations. Ethical writing is writing with a level of inclusion, respect, and acknowledgment of diversity. The importance of ethical writing, then, is based not only upon the avoidance of plagiarism but also on avoiding the weaknesses of bias and exclusive language (sexist, racist, homophobic, etc.) Legal scholars must carefully attribute sources and give fresh insights to responsibly advance the profession.¹⁶ Objectivity is also crucial in legal studies.¹⁷ Scholars must aim to give objective analyses and avoid allowing personal or ideological prejudices to impact their research.

VI. Accessibility and Audience Engagement. Legal writing should be accessible to a wide range of audiences, including legal professionals, academics, and the general public. Tailoring language and content for different readerships broadens the

¹⁵ Brittain S and others, 'Ethical Considerations When Conservation Research Involves People' (2020) 34(4) *Conservation Biology* 925-933

¹⁶ Martyn SR, Fox LJ, Acosta AP and London AM, *Traversing the Ethical Minefield: Problems, Law, and Professional Responsibility* (Aspen Publishing 2022)

¹⁷ *ibid*

reach and influence of legal studies. Plain language and excellent communication tactics make legal writing more understandable and entertaining. This technique helps to explain difficult legal issues to a wider audience. To improve reading and engagement, use clear, brief sentences and interesting storylines. Engaging writing captures the reader's interest and promotes greater understanding.

VII. Research and Citation Challenges Comprehensive and accurate legal research is essential for genuine research. Academics must use thorough research procedures to get relevant and accurate data. Proper citation of legal sources and authority maintains academic integrity and allows readers to verify and expand on the research. A citation identifies for the reader the source for an idea, information, or image that is referred to in a work.¹⁸ In the body of a paper, the in-text citation acknowledges the source of information used. At the end of a paper, the citations are compiled on a References or Works Cited list.¹⁹ Citation standards are critical for scholarly reputation. Managing enormous amounts of information requires strong organisational and reasoning abilities. Scholars must condense massive volumes of data into coherent, concise analyses.²⁰

¹⁸ Jacobson L and Booch JRG, *The Unified Modeling Language Reference Manual* (2021)

¹⁹ *ibid*

²⁰ Xin X and others, 'Review on a Big Data-Based Innovative Knowledge Teaching Evaluation System in Universities' (2022) 7(3) *Journal of Innovation & Knowledge* 100197

VIII. Peer Review and Publication Process: The challenge of getting through the peer review process entails subjecting work to intense evaluation by specialists. Peer reviewers provide constructive input that helps refine and improve the quality of legal studies. Handling reviewer criticisms and suggestions is an important step in the publishing process. Scholars must respond thoughtfully and make appropriate changes to improve their work's legitimacy and impact. Choosing relevant journals and publication sources ensures that legal scholarship reaches its intended audience and has the most impact. When submitting work, scholars must examine the journal's scope and reputation.

3.0 Conclusion and Recommendations

This paper has discussed the major obstacles of legal writing, such as the complexity of legal terminology, multiple legal systems, fast-changing surroundings, balancing theory and practice, ethical considerations, accessibility, research and citation, and the publication process. To address these issues, legal scholars should use clear and understandable language, stay current on legal and technical developments, integrate theory and practice, adhere to ethical standards, and communicate with a diverse range of audiences. Future legal scholarship should emphasise multidisciplinary approaches, the use of technology for research, and worldwide collaboration to address growing legal concerns and improve the effect of legal writings.