

Designing Writing and Research Courses for International Students

Brutal Choices in Curricular Design ... is a regular feature of Perspectives, designed to explore the difficult curricular decisions that teachers of legal research and writing courses are often forced to make in light of the realities of limited budgets, time, personnel, and other resources. Readers are invited to comment on the opinions expressed in this column and to suggest other “brutal choices” that should be considered in future issues. Please submit material to Helene Shapo, Northwestern University School of Law, 357 East Chicago Avenue, Chicago, IL 60611, phone: (312) 503-8454, fax: (312) 503-2035.

By Mark E. Wojcik

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U.S. law schools continue to recruit and welcome students from other countries. Some of these international students are already lawyers in their home countries (although in their home countries, a law degree may be only the equivalent of an undergraduate degree). Some students will come to participate in LL.M. programs that survey American law. Other students will study in specialized LL.M. programs for intellectual property law or a similar hot topic; their classmates in these programs will often be native-English speakers who have graduated from law school and who may have already been in practice for several years. Other international students will enroll in J.D. programs in schools that may waive up to one year of course credit toward that degree based on the students' previous legal study in their home country. Some students will plan to take the New York bar exam based on their foreign law license and American LL.M.; other students will simply come for the degree.

All of these international students will soon be asked to write seminar papers and final examinations in English. Most of these students speak English as a second language (ESL). Relatively few of these students will have had much experience in writing at levels that satisfy the high expectations of excellence that some native English-speaking law professors may demand.

Most law schools eventually realize the need to provide at least some minimal level of specialized training and support for these international students. But administrators and faculties at most law schools will notoriously underestimate the amount of support that international students may require to satisfy the high professional expectations being placed upon them. Only a handful of law schools provide sufficient levels of support for their international students.

This short article is on the “brutal choices” that legal writing professors must sometimes make in curricular design when teaching international students. This article is part of a series published in *The Second Draft*. In this series of articles, authors describe the brutal choices that legal writing professors must make in a variety of circumstances. The danger in writing an article for this series is that the article may be used to justify a minimal or insufficient level of support for international students and the faculty who teach them. Using this article for that purpose would be wrong; international students and their teachers deserve and require adequate institutional and personal support. This article merely recognizes the sad reality that most institutions now fail to provide appropriate levels of support. Given that reality, what is a legal writing professor to do with limited resources, time, and energy? If a writing professor has an opportunity to design a writing course for international students, what needs should that course address? What goals should the course have?

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What obstacles exist to achieving those goals, and how might those obstacles be overcome? What materials should be used or developed for the course? How should student performance be evaluated? And how could professors document the need to expand and improve the course so that future instructors (at that institution and others) might not face the same “brutal choices” now imposed?

There is no single, cookie-cutter answer to any of these questions. What follows is the next best thing: a set of essential questions that legal writing professors should consider when making their own brutal choices in curricular design.

1. Assess the Needs of Your International Students

Making appropriate choices for your students depends on their needs. For example, few international students will appear as trial lawyers in a U.S. courtroom, and they don’t need to learn how to draft a complaint. However, they may be called upon to draft international contracts. In such a case, the writing component of the course and its materials may be better focused on drafting contracts rather than drafting pleadings or an appellate brief.

To succeed in a classroom, ESL students will need to develop skills in listening to classroom lectures and in listening to conversations between native speakers on complex legal issues. ESL students will need to develop technical reading skills that will allow them to get through assigned materials. (Teachers should know that in some countries students are taught to read only the first sentence of each paragraph in a longer article or case; they are given this advice as a defense mechanism to cope with long reading assignments.) When teaching reading skills, students will need to be trained in why it will be important to use an English language law dictionary instead of relying (as many students do) merely on an electronic, bilingual dictionary that will not explain the legal contexts of words.

Students trained in civil law systems will also require some training in common law reasoning. In an area where brutal choices must be made, some teachers will leave the teaching of “reasoning skills” as such to other classes, and instead focus on improving the students’ writing and research skills. Most teachers will recognize, however, that the teaching of reasoning skills is both necessary and inherent in teaching writing skills.

Some choices on curricular design will also depend on the other courses that a student intends to take. If a student will be taking courses that require scholarly papers, some instruction must be given on basic research skills including how to find and update primary sources, how to use secondary sources to explain the primary sources, and how to attribute everything properly. The research component of a course should also keep in mind the fact that students will often not have access to many of the print-based primary and secondary sources once they return to their home countries, and that access to many of the electronic databases will be prohibitively expensive unless a special arrangement is made for access. The limitations on what students may face in the future does not mean that we should avoid teaching about the sources that are available here; it means instead that we must also teach other ways of accessing similar information once we no longer have access to the law school library.

In assessing needs, teachers should also look at what skills students already possess in other languages. One teacher was surprised to find that an ESL student spoke six other languages.

2. Set Reasonable Goals

It is not reasonable to expect that any ESL student will master all of the skills necessary within a single semester, or even a single year. It surprises many teachers (and students) that language mastery at the level expected in U.S. law practice could easily take five or six years to achieve, and even then only with sustained and intensive instruction. Mastery cannot be achieved within a single semester.

Reasonable goals for a course should be based on the students’ present levels of language proficiency and

comfort with source materials. In some cases a “goal” may be simply to introduce materials, identify necessary skills (including effective computer skills), and instruct students on how to access various sources of traditional and nontraditional academic support as deadlines approach for their papers. To take but a simple example, many international students may be unfamiliar with how to use a computer grammar program. Such programs can greatly improve writing skills, but students must be taught to identify when the suggestions of the grammar program are inappropriate for legal writing.

When I do not have a lot of time with students to have them develop their own written work, I have also found that it is often easier to teach students how to edit than it is to teach them how to write. My hope is that students will become better writers with the editing skills I teach them.

3. Find Appropriate Course Materials

There are more legal writing books now that take into account the special needs of ESL students. More books are needed, and teachers who are reading this column should consider contributing to the body of materials available to teach ESL law students. Choosing an appropriate legal writing book for a course is similar to choosing an appropriate tool from a toolbox. What may work in one situation may not be appropriate for another situation.

Writing assignments, in general, should be much shorter than in standard legal writing classes. There can be more assignments, but they should also be shorter.

Students will also need one or more standard reference works. An English language law dictionary should be essential, because students looking up one unfamiliar word will learn five or six other words in the process. (They will not learn those other words if they simply use a bilingual dictionary.) Bilingual law dictionaries are available for many languages, however they vary in quality and should be used only as an additional supplement to the English language law dictionary.

A grammar reference book (especially if focused on ESL students) will also be essential. You can find many good books simply by visiting the ESL section of your campus bookstore or a local bookstore. The grammar book will explain particular grammar points and usually offer some illustrations of proper use. A computer grammar program will also be necessary for most students, but do not assume that all grammar programs are the same or that students know how to use them correctly. Some students mistakenly believe that they are already using a grammar program because the word-processing program they use will flag mistakes. They may not know about the effective use of the full program, or how to change the writing levels of the program.

Some students may benefit from a special “Legal English” or “Introduction to U.S. Law Course” offered in the summer, before the fall semester begins. Several such courses are available now and can help students perform at higher academic levels when they begin the regular fall semester.

4. Evaluating Students, and Having Students Evaluate the Course

Properly evaluating students is difficult in any course, but it may prove especially difficult in an ESL course (and, more particularly, in a course designed with brutal choices). One recurring question is whether to give more weight to a student’s performance in a written assignment or to a student’s improvement since the course began. Because other teachers in substantive courses will commonly grade on the quality of the final product, most teachers will look also to that quality rather than to student improvement. But improvements can be recognized and nourished through thoughtful comments on student work.

Students should also be asked for their evaluations of the course, the assignments, and the course materials. In addition to (or in lieu of) standard evaluation forms for other courses, teachers may want to construct additional student surveys to collect feedback on how well (or not) the course identified and met student needs. Such surveys can be given in the middle of the course, at the end of

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the course, and, if possible, at some point long after the course was completed. Students will have a good idea of their own needs, their own learning styles, and the effectiveness of our teaching; we should use that knowledge to benefit future students.

5. Document the Need for the Future

Saving surveys from students about the importance of the course will assist teachers later when they have to argue for more support, more credit hours, or additional academic support for international students. Brutal choices being made now for students should not always be brutal—if we can document the need for special courses for ESL students.

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A Sampling of Legal Writing and Research Texts for International Students

Prepared by **Mary A. Hotchkiss**, *Perspectives* Editor

Teresa Brostoff and Ann Sinsheimer, *Legal English: An Introduction to the Legal Language and Culture of the United States*, 2d ed. (2003) [Dobbs Ferry, NY: Oceana, 480 p.]

Toni M. Fine, *American Legal Systems: A Resource and Reference Guide* (1997) [Cincinnati, OH: Anderson Publishing Co., 121 p.]

Rachel Gader-Shafran, *The International Student's Survival Guide to Law School in the United States: Everything You Need to Succeed* (2003) [New York, NY: iUniverse, 117 p.]

Debra S. Lee, Charles Hall, and Marsha Hurley, *American Legal English: Using Language in Legal Contexts* (1999) [Ann Arbor: University of Michigan Press, 276 p.]

Dana Neacsu, *Introduction to U.S. Law and Legal Research* (2005) [Ardsey, NY: Transnational Publishers, 186 p.]

Nadia E. Nedzel, *Legal Reasoning, Research, and Writing for International Graduate Students* (2004) [New York, NY: Aspen Publishers, 353 p.]

Jill J. Ramsfield, *Culture to Culture: A Guide to U.S. Legal Writing* (2005) [Durham, NC: Carolina Academic Press, 402 pp.]

Christine Rossini, *English as a Legal Language*, 2d ed. (1998) [Boston: Kluwer Law Intl., 320 p.]

Mark E. Wojcik, *Introduction to Legal English: An Introduction to Legal Terminology, Reasoning, and Writing in Plain English*, 2d ed. (2001) [Washington, DC: International Law Institute, 428 p.]