

TEACHING LEGAL ENGLISH AS A SECOND LANGUAGE

BADEA ELENA CODRUTA
CHRISTIAN UNIVERSITY "DIMITRIE CANTEMIR"
SPLAIUL UNIRII NO.176, BUCHAREST, 4TH DISTRICT
codrutabadea@yahoo.com

Abstract:

In the last two decades, legal English has attracted increasing interest and awareness, especially because English is predominantly the language of international legal practice. Legal English must be seen in the overall context of English for Specific Purposes, as it shares the important elements of need analysis, syllabus design, course design, and materials selection and development which are common to all fields of work in ESP. As with other varieties of ESP, Legal English implies the definition of a specific language corpus, usages of various teaching strategies and emphasis on particular kinds of communication in a specific context. The article aims to highlight some aspects of teaching legal English by a non-native teacher who is not an expert in law. It particularly focuses attention on the development of basic communication skills and the use of lexical approaches in successful language acquisition in legal English.

Key words: *language acquisition, context, teaching strategies, specific communication*

JEL classification: I2

Traditionally, legal English is widely used by lawyers and legal professionals, whether they work in private or public institutions and organizations as: legal advisors, barristers, judges, jurors etc.

The internationalization of commerce has established English as an international language both at European and global level, determining non-native English speaking legal practitioners and law students to specialize in legal English. So legal English has become an essential element of a legal training programme both at the academic and professional stage. During the past decades, most European universities have introduced courses in English for Special Purposes, such as legal English to cope with the great demand. Both private and state-owned educational systems have applied what it is known as CLIL (Content and Language Integrated Learning) which facilitates easiness in language acquisition, but which has proved to be an unsuccessful method in teaching law, leading to major difficulties during the learning process in such a specialized field. (Smith, 2005.) Learners' level of L2 skills as well as their language abilities should be taken into consideration when teaching legal English. Experience in language teaching, especially in English for law students, has proved that learners should completely be aware and understand the difference between the different legal systems, thus helping them in overcoming linguistic discrepancies and gaps. There are some language skills and cultural particularities that cannot be ignored, especially when we deal with legal English. Since law is considered to be an extremely precise and concise discipline, legal principles must be integrated and interpreted according to a specific legal system. If we overlook this aspect, translation problems may occur without being connected to language

It goes without saying that the teaching of legal English as a second language raises two language-related challenges. The first refers to the particularities and peculiarities of its vocabulary and sentence structure, whereas the second one focuses

on the cultural differences between the national legal system and the English second learners. Such cultural differences may require a different approach in the methodology of teaching legal English to foreign learners. According to the academic curriculum, the purpose of learning legal English is to prepare students to practice law, to familiarize them with the terminology and facilitate them to deal with the requirements of a law degree programme. The article discusses some problems of teaching legal English to non-native students in Romanian private universities.

Legal English, both in its oral and written form, comprises specialized terminology that creates difficulties not only to native speakers, but also to foreign users. According to David Mellinkoff (1963, p 11-29), legal English lexis includes Latin, French and Anglo-Saxon words and phrases, rare words from Old and Middle English, professional jargon and formal expression, reflected throughout contemporary usage, and which makes it a “hard nut to crack” to modern learners. The aim of teaching students professional legal English is to train them specific skills so that they can use them in a professional manner. This presupposes “providing learners with the specific vocabulary and structures and enhanced linguistic modalities they want and need to succeed.” (Belcher 2004, p173). They should also learn and practice drafting and writing legal documents and advocacy, developing specific competencies. Legal courses used in higher education focus on accurate use of the legal vocabulary and style, outlining the correct use of language range and structures. Due to its highly specialized terminology, legal English should be studied and taught in a concrete legal context.

Resources focus on reading and analyzing appellate court decisions, casebooks and law reports helping students to learn the skills necessary in their future practice as legal practitioners. Students’ training also includes activities meant to improve their proficiency in English, with special emphasis on language, vocabulary and academic skills, paying also attention to oral presentation, academic listening and writing.

Being a non-native teacher of legal English, I must admit that the most time consuming activity of my preparation is terminology mining. Every time I have to deal with challenging topics, I think of what Gonzales said about English teachers “as English teachers we are expert in language use and we have to emphasize this language in our classes” (Gonzales, 2009). This principle does not totally apply to teaching legal English compared to English for Medicine, Science or other areas of ESP. Most of the teaching materials and resources used in the sessions are based on authentic texts belonging to the UK or the US legal systems in which students are unlikely to be expert. So, in these situations translation into mother tongue help students understand legal concepts and vocabulary.

Legal English courses in Romanian law schools are mainly designed for native English speakers such as *Introduction to Legal English* or *Professional English in Use* designed by *Translegal*. Great emphasis is laid on the cultural differences between the culture of foreign students and the corresponding legal culture, so the teacher should be utterly aware of these particularities and try to provide a cultural balance and cross cultural comparisons. In Bhatia’s view “specialist learners must be trained to handle both legislative discourse so that they can apply such legal relations to the facts of the world outside and legal cases so that they can perceive legal relations from the facts of the world” (1989, p237). It is suggested that a good teacher of legal English must display the required qualification and experience in teaching English for special purposes and sufficient knowledge on relevant legal subjects. This approach applies to English speaking educational systems, and not to the Romanian legislation which has as its source in the Napoleon Code. So, non-native English teachers need to find the most appropriate pedagogical methods to facilitate students’ language acquisition and concept understanding. The most important thing for a teacher is to facilitate the improvement of their students own linguistic performance and cultural awareness

through a wide range of approaches and techniques. In the context of legal English and of ESP, in general, students need to put into practice the vocabulary and structures of their field or study and, because we, as teachers, are not experts in these areas, it is necessary to encourage students to work independently on issues connected to their topics and subjects. This may include computing and information gathering techniques, simulation exercises designed under the form of written projects which students have to orally present under the guidance of their language teacher and translations. Working on suitable topics, using the four linguistic skills closely monitored by their teacher and taking advantage of classroom interaction, should generate the production of authentic contributions.

The teacher must be utterly aware of the problems that such approach might create. When students are required to discuss in English about their own legal systems, we unavoidably determine them to translate into a foreign language. Although they are fluent and accurate in English and can engage, develop and sustain a conversation on a wide array of topics, it is very difficult for them to think in English about their own legal system. To be able to deal with topics on their own legislation, they must translate the term from their mother tongue into English. For example, I was working with first year law students on Contract Law, precisely on contract formation where we needed to define the term “consideration”. It was rather challenging because the term doesn’t have a proper translation for it in Romanian, so students had to find the best equivalent for this. This example points out that terminology translation is nevertheless necessary to avoid misunderstandings, confusions and communication failures.

The translation of legal terminology requires a lot of cognitive effort and cannot be reduced to simple equivalents in mother tongue. Cognitive linguists have investigated the particularities of legal terms explaining their complex organization and meanings. Concepts are correlated and embedded in different cultural and cognitive structures which are reflected into national legislation and caselaw. Legal terms may be seen as points of access to concepts and prompts for conceptual operations that activate relevant background knowledge. (Biel, 2009). “A legal concept is an abstract general notion or idea which serves as a category of legal thought or classification, the title given to a set of facts and circumstances which satisfies certain legal requirements and has certain legal consequences. (Walker,2001). Undoubtedly, the set of facts and the set of consequences are rarely identical in two legal systems. This does not apply to scientific fields where concepts are universal and equivalent in other language. The relationship between legal terms should be seen as an equivalence and not as one of similarity according to Tymockzo, 2005. Equivalence criterion is major when choosing the translation strategies.

Translation strategies fall into two categories as classified by Venuti: *foreignising*, source language oriented equivalents which evoke a sense of the foreign, and *domesticating*-target language oriented equivalents which facilitate comprehension through assimilation to TL culture. However, researchers do not unanimously agree on the best approach. Weston is in favour of TL oriented equivalence, being in his opinion the “ideal method of translation”(1991.23). To convey the meanings of the Romanian concepts in English is to have access to unfamiliar through familiar and “to use a term designating a concept or an institution of the target legal system having the same function as a particular concept of the source legal system.”(Šarčević 1997, 236). In a TL oriented approach we need to take into consideration the target system.

The most important thing for a teacher is to facilitate the improvement of their students own linguistic performance and cultural awareness through a wide range of approaches and techniques. In the context of legal English and of ESP, in general, students need to put into practice the vocabulary and structures of their field or study and, because we, as teachers, are not experts in these areas, it is necessary to encourage

students to work independently on issues connected to their topics and subjects. This may include computing and information gathering techniques, simulation exercises designed under the form of written projects which students have to orally present under the guidance of their language teacher and translations. Working on suitable topics, using the four linguistic skills closely monitored by their teacher and taking advantage of classroom interaction, should generate the production of authentic contributions.

There are some language skills and cultural particularities that cannot be ignored, especially when we deal with legal English. So, as law is considered to be an extremely precise and concise discipline, legal principles must be integrated and interpreted according to a specific legal system. If we overlook this aspect, translation problems may occur without being connected to language.

Based on the assumption that legal principles cannot be taught in English to non-native speakers directly, as a result of the problems aforementioned, we need to rely on alternative methods. Teachers should manage existing knowledge, constructing a solid foundation for ESP and guiding the learners to work autonomously to create a link between the goal of the learning language curriculum and pedagogical methods. Legal English resources are designed to cover the four skills, tailoring the activities to correspond to socio-cultural real life situations. So, the content and methods should be attentively adapted in such a manner that students can apply their skills of legal English in their domain.

Task-oriented activities increase confidence enabling them to express orally and literally in an international environment, such as conferences or international courtrooms. They also should be able to deal with legal texts for example treaties, directives, regulations or any type of legal documents. These activities should be doubled by traditional methods to create the very foundation and vocabulary for further language development. This part, covering legal terminology, is called “English support” which consists of complementary tasks and self-study projects. Students work independently during classes and at home, covering grammar, reading and extra grammar research. Learners tend to gain more confidence in legal English, thus stimulating class participation.

Most of the learners are not familiarized with the legal system of English spoken countries so any course in legal English should start with introductory texts on the history of the English law and the differences between a codified system as it is known in Western Europe and Latin America and Common Law in Anglophone countries. Producing speeches and writing compositions require an extraordinary control of the language which combines written and linguistic skills with the ability to formulate and develop idea using specialized terminology.

The aim of the language learning activities is to enable learners to meet the requirements of professional training and real-life activities. English, as any other language, has a great amount of vocabulary which learners need to acquire, because, otherwise, it is quite difficult for them to use English for reading, writing, listening and speaking. Spiri has pointed out the great importance of vocabulary acquisition for non-native English speakers considering to be “the most fundamental issue for second language acquisition” (Spiri, 2010).

Legal English has undoubtedly its specific features which distinguishes it from GE or other forms of ESP and teaching English for Law is a challenging but feasible task for a competent EFL teacher.

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