



新世纪专业英语系列教材
New Century Subject-oriented English

中国人民大学 编著
总主编
张勇先 康成翠

法律英语教程 English for Law

(第2版)

主编 赵雁丽



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总序 *Preface*

“新世纪专业英语系列教材”自2003年出版以来在全国高校使用了6年,受到国内专家学者及广大教师和学生的好评,其中《工商管理英语教材》被列入教育部“普通高等教育‘十一五’国家级规划教材”。

为更好地推进专业英语教学,强化使用效果,编者遵循教育部《大学英语课程教学要求》(以下简称《课程要求》),结合实际使用中的反馈意见,经过近2年认真仔细地调整与策划,对第1版进行了修订与补充,并在原有基础上增补了6个品种,推出“新世纪专业英语系列教材”(第2版)(总计13种)。

一、编写与修订依据

为适应我国高等教育发展的新形势,满足新时期国家和社会对人才培养的需要,教育部高教司于2007年7月颁布了《课程要求》。

《课程要求》中规定的大学英语阶段的英语教学要求分3个层次,即一般要求、较高要求和更高要求,并规定:“各高等学校应根据本校实际情况确定教学目标,并创造条件,使那些英语起点水平较高、学有余力的学生能够达到较高要求或更高要求”。《课程要求》对听、说、读、写、译均有明确的规定:

听力要求:“能听懂涉及专业知识的学术报告、专题讲座等,并能理解其中阐述的事实或包含的较为抽象的概念。”

口语要求:“能在学术会议或专业交流中较为自如地表达自己的观点和看法,……”

阅读要求:“能较为顺利地阅读所学专业的英语文献和资料。”

写作要求:“能撰写专业文章摘要,能写简短的专业报告和论文。”

翻译要求:“能借助词典翻译所学专业的文献资料和英语国家报刊上有一定难度的科普、文化、评论等文章,……”

“新世纪专业英语系列教材”(第2版)在设计和编写上贯彻《课程要求》对大学英语的“更高要求”的教学目标及大学英语参考词汇等方面所做的界定和

描述,并在此基础上,结合英语教学理论与实际教学要求,进行了修改与增补。

二、修订与增补内容

1. 将原系列中的《国际贸易英语教程》、《工商管理英语教程》、《新闻英语教程》、《旅游英语教程》、《法律英语教程》5个品种的上、下册合为1册,将《财金英语教程》按照专业拆分为《金融英语教程》和《会计英语教程》。

2. 新增《电子商务英语教程》、《人力资源管理英语教程》、《物流管理英语教程》、《市场营销英语教程》、《管理英语教程》和《医学英语教程》,从而更加方便学生与教师的学习与使用。

三、编写原则与特点

本系列教材充分贯彻《课程要求》的基本精神,在内容编排方面,除精心编选课文外,还创新性地设置听、说、读、写、译练习,更加强化了学生英语综合能力的培养。其突出特点如下:

1. 课文选材新颖:课文中绝大部分文章是2000年以后发表的,具有很强的时代感。

2. 课文语言地道:课文绝大部分取材于国外著名专家的原版著作,语言地道,具有很高的权威性与可读性。

3. 内容覆盖全面:内容涉猎面广,具有很丰富的知识性。以工商管理为例,全书包括从工商管理十大原理,如企业经理的作用、策划、计划及组织等,到企业招聘面试,均有涉及。

4. 课文难度适中:课文深入浅出,避免晦涩艰深,对学生完成从基础到专业的过渡具有很大的帮助。

5. 练习类型多样:练习融听、说、读、写、译于一体,难易兼顾,符合我国新世纪的最新教学理念,对教师教学具有很强的可操作性。

6. 辅助功能齐备:教材的附录部分提供了练习答案、参考译文、总词汇表及听力原文,使学生学习及教师教学更加方便与灵活。每册教材均配有由外籍语言专家朗读的MP3听力光盘1张。

四、编写队伍

本系列教材均由专业英语教师与大学英语教师共同编写,课文译文由英语过硬的专业教师负责审定。

总主编由曾在国内出版了大量颇受欢迎的教材、专著及词典等的中国人民大学外语学院张勇先教授与康成翠副教授担任。各分册主编与编者绝大部分为中国人民大学外语学院与商学院等骨干教师。其中《金融英语教程》与《会计英语教程》由韦娜(美国教育学博士)主编;《国际贸易英语教程》由许葵花(语言学博士)主编;《旅游英语教程》由王晓彤(语言学在读博士)主编;《工商管理英语教程》、《物流管理英语教程》和《市场营销英语教程》由张初愚(英国工商管理硕士)主编;《法律英语教程》由赵雁丽(语言学与法学双硕士)主编;《新闻英语教程》由白松(语言学硕士)主编;《电子商务英语教程》由唐启明(语言学硕士)主编;《人力资源管理英语教程》由王珠英(语言学硕士)主编;《管理英语教程》由郭继荣(语言学博士)主编;《医学英语教程》由王小丽(语言学硕士)主编。

此外,还特邀了北京外国语大学、中国社科院、西安交通大学、北京联合大学等单位的著名教授、专家与学者加盟。

本系列教材虽经编者尽心推敲、仔细查阅,纰漏与差错在所难免,恳请各界专家、学者及热心的读者不吝赐教。

编者

2010年3月

前言 Foreword

根据国家教育部颁布的《大学英语课程教学要求》，大学英语应用提高阶段的英语教学应该使学生在听读方面能理解与本专业相关的口语和书面英语语篇，在说写方面能用英语就专业问题自如地表达自己的看法和观点，在专业翻译方面能在中英两种语言之间自由地切换，熟练运用专业英语进行学术和实务方面的交流。无论是在法学学术还是在法律实务领域，国际化的形势要求法律人既有扎实的专业知识，又能够用外语打开对外交流的窗口，法律英语成为学校在校学生和研究者以及从业律师和其他法律工作者必须学习和掌握的功课。为配合该教学要求以及目前国际化的形势，特编写《法律英语教程》。

《法律英语教程》是针对法学专业高年级学生、法律实务工作者和法律英语爱好者编写的专业英语教材，可供高校课堂或希望掌握法律英语的自学者使用。本教材选材均来源于最近的英文法学出版物，单元主题以美国法律制度为基点，涵盖了法学的各个领域，并按照法学专业知识的逻辑顺序出现，基本专业词汇也因此得到了较为全面的呈现。本教材旨在帮助读者在扩展专业知识的同时，掌握一定的专业英语词汇，熟悉法律英语表达法，并进一步巩固英语语言基础，提高学生在专业领域内综合运用英语语言的能力。

本书共计十六个单元，每个单元包括一篇主课文和一篇副课文。主课文为该单元的精读部分，除有生词、语言点和背景知识的注释外，还附有课文理解、词汇以及听说写译方面的综合性配套练习，以为有效的法律英语教学提供丰富的语言实践活动。副课文是主课文在专业知识和专业词汇方面的延伸，作为课堂学习的补充。此外，本书还附有主课文译文、练习答案、听力原文、总词汇表和参考书目，以方便自学者自学和查阅。

对于本书的编写，我们付出了大量的心血，力求对课堂教学和自学者能有所帮助。但由于各方面条件所限，恐多有不足之处，恳请各方专家和热心读者对教材提出批评和建议，以利教材的日后完善。

编者

2010年5月

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Unit 1

The Nature of Law

The Nature of Law and Legal Theories

Americans have always had ambivalent feelings about law. Our rhetoric is full of noble ideals such as “equal justice under law” and the “rule of law.”¹ We pride ourselves on having a “government of laws, not men,” and on the assertion that “no one is above the law.” At the same time, disregard for the rule of law has been part of our political tradition. We are a nation born of violent revolution, and during our frontier period vigilante groups² often took the law into their own hands. Even in our own time we debate the role of civil disobedience³ in the civil rights, animal rights, abortion, and antinuclear movements.

In many ways the questions we ask ourselves about the nature of law are the same ones we ask about our political system and about society at large. How do we account for the conflicting attitudes Americans have toward law? How can persons who are law abiding one minute turn into a lynch mob the next? How can a nation founded on the basis of its citizens’ “inalienable rights” systematically deny those rights to African Americans and other minorities? How can we explain these contradictions? The answers to these questions are not easy, but we can begin to understand the paradox by looking at three approaches to the nature of law.

★ Natural law⁴ approach

Natural law theorists believe that the laws that govern relationships among people, like the laws that govern the physical universe, are sown in nature. These laws are eternal and immutable, just as God, the source of all law, is eternal.

Natural law is often referred to as a form of “higher law” to distinguish it from lesser—that is, man-made—law. Natural law has moral overtones, and those who invoke it often call it “God’s law”. Ascertaining just what is and is not God’s law can be risky business, but its advocates echo the belief of Justice Potter Stewart⁵ that they “know it when they see it”.

Appeal to natural, or higher, law provides a justification for civil disobedience. For example, if one’s conscience tells one that war is morally wrong, then one has a moral obligation not only to resist induction into the military, but also to commit overt acts of civil disobedience in order to raise the consciousness of the community about the evils of war. It was by appealing to the conscience of society that Mahatma Gandhi and Martin Luther King, Jr., were able to make both those in authority and the general public see the immorality of colonialism and segregation. Proponents of animal rights have attempted to make the question of treatment of animals, especially during laboratory tests for drugs and cosmetics, into a moral issue that justifies admittedly illegal behavior such as sit-ins and breaking into facilities to release animals. Invoking this higher law is one way in which a minority can hope to convince the majority to change its mind by appealing to the majority’s sense of morality.

A discussion of natural law inevitably leads to the question of whether it is possible to “legislate morality”. If by legislating morality it is meant that law can change a person’s values, then law obviously cannot legislate morality. A law prohibiting gambling is unlikely to prevent someone who sees nothing wrong with it from betting on the Super Bowl⁶. In such a case the law has altered neither the person’s values nor his or her behavior. Among those persons who choose not to gamble are those who refrain from doing so out of fear of punishment rather than a conviction that gambling is “immoral”.⁷

It would be wrong, however, to conclude that law has no impact on morality. A generation or two ago, many Americans thought it was perfectly acceptable to use the law to force African Americans to attend separate public schools, drink at separate water fountains, and eat at separate restaurants. But most younger Americans today are surprised to learn that such laws ever even existed. Undoubtedly, years of civil rights and antidiscrimination laws have changed the views of many Americans about the morality of racial segregation. It is in this sense that law can indeed legislate morality.

🍁 **Positive law⁸ approach**

A second approach, positive law, is the belief that law should simply reflect the will of the majority. Law is stripped of any moral overtones and boils down to⁹ the old adage, "Might makes right." Despite the immorality of segregation or colonialism, if a majority wishes to have a segregated society or a colonial policy, then they may have it. Those who disagree with the law can certainly work within the democratic process to change it (albeit an unlikely occurrence), but they must accept it as the legitimate reflection of the will of the majority. Under no circumstances may the minority resort to unlawful methods to effect change. The law, then, becomes whatever a majority, wants at a particular point in time.

🍁 **Sociological approach**

The sociological theory of law¹⁰ holds that law represents a reflection of the values, mores, and culture of the society that produces it and that as the society changes, the law will also change. For example, we have seen tremendous change in our own society as a result of the women's movement. As traditional views of the role of women have changed, laws dealing with the rights of women in employment, pension plan,¹¹ credit, and child support¹² have changed to keep pace. Although the law may lag behind a bit, it eventually catches up and reflects society's prevalent views.

The sociological approach is even more evident in our view of criminal behavior. Criminal law, you will recall, defines what type of behavior is antisocial and therefore proscribed. Some behavior is wrong in itself and is almost universally condemned. Other acts are wrong merely because they have been prohibited. At one time the manufacture and sale of alcoholic beverages were against the law, but after some experience with Prohibition¹³, the measure was finally repealed. Today, gambling is still illegal in many states, but society's views are changing. Once restricted to Nevada and New Jersey, casino gambling is now permitted in Colorado, Mississippi, Louisiana, and New Mexico, to name just a few states. While the debate continues over the morality of state-sponsored gambling, people are beginning to view it more as acceptable entertainment and less as an unlawful act.

How would each of the three approaches just described deal with an issue such as homosexual marriages? The natural law theorist might argue that such marriages

are a sin against God, violate natural law, and should not be legalized. The positive law theorist would argue that the morality of homosexual marriages is irrelevant; a majority of people are still opposed to them (assuming this to be true), and they should therefore remain illegal. The advocate of the sociological approach would argue that while our society is not yet ready to accept such marriages, a more tolerant atmosphere may prevail at some future time.

In a sense, American law encompasses all three of these approaches. The resulting paradox is the same one that is inherent in our political system and in society in general; On one hand, we believe that law should reflect the will of the majority; on the other hand, we accept the notion that minorities also have rights under the law. It is a source of frustration to many who wonder why we permit flag burning if a majority of Americans oppose it, and why we do not have prayer in the schools when a majority favor it. Is the law a manifestation of the majority's will or isn't it? Reconciling this paradox is never easy and seldom satisfying.

(1,293 words)



Words & Expressions

ambivalent /æmbɪ'velənt/ <i>a.</i>	having opposing attitudes or feelings towards a person or thing (态度等) 矛盾的
rhetoric /'retərɪk/ <i>n.</i>	辞令, 言语; 虚夸的话
assertion /ə'seɪʃən/ <i>n.</i>	a forceful statement or claim 主张, 断言
disregard /,dɪsɪ'gɑ:d/ <i>n.</i>	lack of proper attention to or respect for sb. or sth. 忽视; 漠视
vigilante /,vɪdʒɪ'læntɪ/ <i>n.</i>	(美) 警戒会会员, 治安维持会成员
disobedience /,dɪsə'bɪ:diəns/ <i>n.</i>	not obeying 不服从, 违抗
abortion /ə'bɔ:ʃən/ <i>n.</i>	流产, 堕胎
at large	as a whole; altogether (位于所修饰词后) 整个的, 全部的; 大多数
law abiding /'lɔ:əbaɪdɪŋ/ <i>a.</i>	obeying laws 守法的
lynch /lɪntʃ/ <i>n. & v.</i>	(处) 私刑; 私刑处死
mob /mɒb/ <i>n.</i>	a large disorderly crowd, esp. one which is violent 暴民, 乱民, 乌合之众

inalienable /'ineilɪənəbl/ <i>a.</i>	which cannot be taken away (指权利等) 不能让与的, 不可剥夺的
paradox /'pærədɒks/ <i>n.</i>	sth. or sb. with seemingly contradictory qualities or phases 有明显矛盾特点的人(物、行为等)
theorist /'θiərɪst/ <i>n.</i>	a person who forms or studies the theory of a subject 理论家
eternal /'etə:nl/ <i>a.</i>	lasting for ever; without beginning or end 永恒的; 永久的
immutable /'ɪmjʊ:təbl/ <i>a.</i>	unchangeable 不可改变的; 永恒的
lesser /'lesə/ <i>a.</i>	of less significance; of lower status 次要的
overtone /'əʊvətəʊn/ <i>n.</i>	(often <i>pl.</i>) things that are suggested but not shown or stated clearly 内涵
invoke /'ɪnvəʊk/ <i>vt.</i>	to appeal to or cite as authority 援引; 援用
ascertain /'æseɪteɪn/ <i>vt.</i>	to discover (the truth about sth.); to make certain 查明, 弄清, 确定
justification /'dʒʌstɪfɪkeɪʃən/ <i>n.</i>	just, lawful excuse or reason for acting or failing to act 正当的理由
induction /'ɪndʌkʃən/ <i>n.</i>	(美) 征召
overt /'əʊvət/ <i>a.</i>	(of beliefs or actions) public; not secret 公开的
morality /mərə'æləti/ <i>n.</i>	conforming to ideals of right human conduct 道德; (行为等的) 道德性
immorality /ɪmərə'æləti/ <i>n.</i>	不道德(性); 不道德行为
segregate /'segrɪgeɪt/ <i>vt.</i>	to separate or keep apart, esp. keep different races in a country apart (种族) 隔离
segregation /'segrɪgeɪʃən/ <i>n.</i>	the separation of a social or racial group from others, by laws that forbid them from using the same schools, restaurants, buses, etc. 种族隔离
proponent /prə'pəʊnənt/ <i>n.</i>	one who supports or argues in favor of sth.; advocate 支持者; 拥护者; 辩护者
admittedly /əd'mɪtɪdli/ <i>ad.</i>	as has been or must be admitted 公认地, 诚然, 无可否认地

sit-in /'sitɪn/ *n.*

an act of sitting in the seats or on the floor of an establishment as a means of organized protest 静坐(抗议)

legislate /'ledʒɪsleɪt/ *v.*

to enact laws or pass resolutions via legislation, in contrast to court-made law; to create, provide, or bring about by making laws 立法; 制定成文法; 用立法实现

legislation /,ledʒɪs'leɪʃən/ *n.*

立法

gambling /'gæmblɪŋ/ *n.*

赌博(罪)

refrain /rɪ'freɪn/ *vi.*

(*from*) to hold oneself back from doing sth.; not do 忍住; 克制

water fountain

(设于公共场所的)喷泉式饮水器

antidiscrimination /æntɪdɪskrɪmɪ'neɪʃən/ *n.* 反歧视

adage /ædɪdʒ/ *n.*

an old wise phrase; proverb 格言; 谚语

albeit /ə'l'bi:t/ *conj.*

(*formal*) although; even though 尽管, 即使

legitimate /lɪ'dʒtɪmət/ *a.*

correct or allowable according to the law or generally accepted standards of behavior 合法的; 合理的, 正当的

mores /'mɔ:reɪz/ *n.*

(*pl.*) the moral customs of a particular group 风俗, 习惯

prevalent /'prevələnt/ *a.*

generally or widely accepted, practiced, or favored; widespread 流行的, 盛行的; 普遍的

antisocial /æntɪ'səʊʃəl/ *a.*

反社会的; 有害于公共利益的

proscribe /prə'skraɪb/ *vt.*

ban; forbid, esp. by law 禁止

repeal /rɪ'pi:l/ *vt.*

to do away with (a law) 废除, 废止

casino /kə'si:nəʊ/ *n.*

卡西诺牌戏(一种由二至四人玩的纸牌游戏); 赌场

homosexual /hə'mə'sekʃuəl/ *a.*

同性恋的

homosexuality /hə'mə'sekʃu'ælɪti/ *n.* 同性恋

legalize /'li:gəlaɪz/ *vt.*

to make legal 使合法化

tolerant /'tɒlərənt/ *a.*

showing or practising tolerance 宽容的, 容忍的

encompass /ɪn'kʌmpəs/ *vt.*

to include or be concerned with (a wide range of activities, subjects, ideas, etc.); to comprise 包含, 包括

inherent /ɪnˈhɪərənt/ <i>a.</i>	(<i>in</i>) belonging by nature or habit 固有的; 内在的
manifest /ˈmænɪfest/ <i>vt.</i>	to show (sth.) plainly 显示; 表明
manifestation /ˌmænɪfɛstɪʃən/ <i>n.</i>	the act, process, or an instance of manifesting 显示, 表明; 表现(形式)
reconcile /ˈrɛkənsaɪl/ <i>vt.</i>	to restore to harmony or friendship 使协调; 使和解



Notes

1. "The rule of law", a legal principle of general application, provides that decisions should be made by the application of known principles or laws without the intervention of discretion in their application.
2. Vigilante groups (警戒会; 治安维持组织) are volunteer organizations who try by unofficial means to keep order and punish crime in an area where an official body either does not exist or does not work effectively. A vigilante is a member of such an organization.

Frontier settlements in the United States often lacked established law enforcement agencies and, instead, exercised summary justice through vigilantes. Western pioneers punished murder, rape, horse thievery, and other capital crimes by lynching.

Lynching means putting to death (as by hanging) a person thought to be guilty of a crime without due process of law. Most known lynchings in the United States have taken place in the South. Before the American Civil War (1861—1865), most lynching victims were white and were usually abolitionists or others who worked to end the system of slavery. After the 1880s most lynching victims were black. Lynching has declined considerably during the 20th century. In the 1960s, however, several people attempting to secure civil rights for blacks in the South were killed by lynch mobs.

3. Civil disobedience (非暴力反抗) is collective refusal to obey civil laws or decrees. This refusal usually takes the form of passive resistance. People practicing civil disobedience break a law because they consider it unjust and hope to call attention to it. In his essay *Civil Disobedience* (1849), American author Henry David Thoreau set forth the basic tenets of civil disobedience for