



21世纪立体化高等院校规划教材 · 英语系列

# 法律英语听说教程

刘艳萍 主 编  
李崑岩 副主编

English



南京大学出版社



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# 法律英语听说教程

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## 内 容 简 介

本书作为法律英语听说教程,主要通过原汁原味的听力材料来介绍英美的法律体系,希望学习者通过学习英美法律的原文材料,掌握纯正、地道的法律英语。鉴于法律英语学习者均掌握了一定的英语语法知识,积累了一定的词汇量,本书没有对基本的英语语法和基本词汇做解释与注释。

本书共分 16 个单元,内容涉及法律英语基本知识,每个单元主要分 4 个部分: Warming-up, Dialogues, Listening Comprehension 和 Supplementary Material。

本书内容适中,形式新颖,既适用于高等院校英语及法律专业的本科学生、硕士研究生、博士研究生,又可作为法律英语实务部门及其他法律英语爱好者的参考书。

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# 序

接到刘艳萍教授的邀请,要我为教材写序,心里颇为感慨。作为一名从事法律英语教学的教师,这么多年见证了法律英语教学发展的每一步。

20 世纪 90 年代以来,法律英语教学发展得非常快,从课程设置、教材建设、师资队伍、教学方法等方面都有长足的进步。越来越多的高校开设了法律英语课,学习者既有本科生,也有硕士研究生和博士研究生。法律英语师资队伍也茁壮成长。目前,法律英语教学呈现出蓬勃发展的态势。法律英语已经由一门课发展成为一个课程群,有法律英语综合课、法律英语写作、英汉法律翻译、法律英语听说等。

近年来,在教材建设方面,法律英语教材硕果累累。这些教材大多是以阅读材料为媒介使学习者接触和学习法律术语及西方法律知识,为法律英语教学做出巨大贡献,培养了一批优秀的懂法律、懂外语的人才,也出现了一些培养写作、翻译等技能的法律英语教材。

当前,我国在国际交往中日益活跃,这对高端法律人才的英语听说能力也有了更高的要求。而目前市场上专门针对提高法律英语听说能力的教材可谓少之又少。其原因之一是选材难,材料内容不仅要体现法律语体,还要覆盖面广,尽量涉及法律的方方面面。其二是设计难,所选材料都需要改编,以符合英语听说的规律,做到难易结合。其三是编写程序繁琐,既要组织书面材料还要组织录制。

令人欣慰的是,尽管困难重重,刘艳萍教授与编写团队一起,经过长期的论证和总结,结合多年来法律英语教学实践中所积累的丰富经验,克服困难,完成了这部教材的撰写和录音工作。

我相信这本教材会成为法律英语教材建设中的一个创新点,衷心地感谢本书作者为法律英语教学所付出的辛勤汗水,也希望本教材能为广大读者提高法律英语听说能力做出贡献。

沙丽金

沙丽金

沙丽金,教授,博士,硕士生导师。中国政法大学法律翻译研究中心主任。翻译理论与实践法律英语教学领域专家。中国法律语言研究会副会长,中国翻译协会董事。

# 前言

随着中国与世界各国交往日益密切,社会对法律英语人才的需求不断增加。法律英语作为法律语言学和法学相交融的一门交叉学科,在国际化日益凸显的情形下,显得更为重要。然而,懂法律、英语好未必能满足这一需求,因为法律英语不是法律加英语的简单组合,法律英语对母语为英语的人尚且是一门新的语言,而对母语为非英语的人来说,法律英语难度就更大了。为满足日益增长的需求,越来越多的高等院校法律专业开设了法律英语课程。目前法律英语人才无论从数量还是从质量上都与社会需求存在一定差距,特别是听说能力比法律英语读写能力相对较低。另外,目前法律英语听说教材寥寥无几,根本满足不了社会需求。在全球化时代的今天,这些不足变得越来越突出,为了缓解这些矛盾并在教材上弥补这一不足,我们以中国政法大学外国语学院具有双专业背景和丰富教学经验的法律英语教师为核心,联合其他高校有实力的法律英语教师,编写了本书。

本教材是中国政法大学李立教授主持的北京市共建项目《北京国际化大都市建设专业人才外语能力培养模式研究》的部分研究成果,其编写具有以下特点。

1. 在内容上,本书以普通法系的基础课程内容为核心,按每周两课时的学习容量来选材。

2. 在形式上,本书设计了听写填空、对话理解、篇章理解以及案例理解等内容,并在练习设计中既保持了传统的听力理解的模式,又增加了如讨论、模拟法庭等富于个性的听力练习,力图使听力难度覆盖不同层次学习者的同时又进一步强化和扩展学习者听说和使用法律英语的交际能力,从而使该教程真正达到学以致用目的。

本书共分 16 个单元,内容涉及法律英语基本知识,每个单元主要分以下 4 个部分。

**Part I Warming-up:** 主要形式为听写 (spot dictation, compound dictation), 内容为相关主题的背景、简要介绍等,难度较低。听力理解之后是针对材料设计的问答和讨论。

**Part II Dialogues:** 主要形式为对话理解,通过教授和学生、律师和实习生、当事人和律师间的对话,反映相关主题内容主要原则、重点问题等,难度较听写部分高。听力理解之后是针对对话设计的问答和讨论。

**Part III Listening Comprehension:** 主要形式为篇章听力理解,通过听力选项练习检查学习者对相关主题内容较难篇章的理解。听力理解之后是针对材料设计的问答和讨论。

**Part IV Supplementary Material:** 主要内容为相关主题经典案例或重要材料。本部分为听+读,该部分篇幅长、难度高,因此在题型设计的时候以文字材料+听力的形式出现,即学生可以听,可以阅读,也可以边听边读,形式以篇章为主。该部分练习涉及术语、问答题及交互活动,如角色扮演、模拟法庭等。

本书由刘艳萍担任主编,并对全书进行统稿与修改,李崑岩担任副主编。参编人员具体



分工如下:王立平负责 Unit One;田力男负责 Unit Two;李崑岩负责 Unit Three 和 Unit Thirteen;张美常负责 Unit Four;刘艳萍负责 Unit Five 和 Unit Twelve;徐新燕负责 Unit Six 和 Unit Fifteen;李妍负责 Unit Seven 和 Unit Sixteen;张鲁平负责 Unit Eight;赵琪负责 Unit Nine;马静负责 Unit Ten 和 Unit Eleven;李昊负责 Unit Fourteen;加拿大张一诺和澳大利亚高山负责听力材料的录音,高峰、项静负责录音制作(包含在本书的配套光盘中)。

本书材料和练习的安排由浅入深,适合各种不同水平的学习者使用,是适合高等院校英语及法律专业的本科学生、硕士研究生和博士研究生,法律英语实务部门及其他法律英语爱好者学习法律英语、提高听说能力的一本难得的教材。对于书中的不足之处,敬请同仁和读者指正。

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# Unit One

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## Legal System

### Part I Warming-up



#### Words and Expressions

legal history	法律史
jurist	法学家
litigant	诉讼当事人
petitioner	申请人,请求人
procedure	程序
outcome	后果
transaction	办理;交易
jurisprudence	法学理论;法律体系
brief	摘要
civil code	民法典

#### I. Listen to the passage and fill in the blanks.

Legal history or the history of law is the study of how law has evolved and why it changed. 1) \_\_\_\_\_ is closely connected to the development of civilizations and is set in the wider context of social history. Among certain 2) \_\_\_\_\_ and historians of legal process it has been seen as the recording of the evolution of 3) \_\_\_\_\_ and the technical explanation of how these laws have evolved with the view of better understanding the origins of various 4) \_\_\_\_\_, some consider it a branch of intellectual history. The twentieth century historians viewed legal history in a more contextualized manner, more in line with the thinking of social 5) \_\_\_\_\_. They looked at legal 6) \_\_\_\_\_ as complex systems of rules, players and symbols and seen these elements interact with society to change, adapt, resist or promote certain aspects of 7) \_\_\_\_\_. Such legal historians tended to analyze case histories from the parameters of social science inquiry, using statistical methods, analyzing class distinctions among 8) \_\_\_\_\_, petitioners and other players in various legal processes. By analyzing case 9) \_\_\_\_\_, transaction costs and the number of settled cases they began an



analysis of legal institutions, practices, procedures and briefs that gave us a more complex picture of law and society than the study of jurisprudence, 10) \_\_\_\_\_ and civil codes can achieve.

II. Listen to the passage again and answer the following questions.

1. What is legal history or the history of law?
2. What was the view of the twentieth century on legal history?
3. What attitudes did they hold towards case history?
4. By analyzing case, what would be the outcomes?

## Part II Dialogues

### Dialogue 1



#### Words and Expressions

common law	普通法
precedent	先例(原则)
tribunal	法庭, 审判所; 仲裁
legislative	立法的; 立法机构
executive branch	行政机构
<i>stare decisis</i>	先例原则
jurisdiction	管辖权, 司法权
appellate court	上诉法院

I. Listen to the dialogue and choose the best answer.

1. Common law is also known as \_\_\_\_\_.  
A. civil law      B. case law      C. canon law      D. Islamic law
2. Common law means \_\_\_\_\_.  
A. the law common to the whole country      B. the law common to the whole world  
C. there are common features in law      D. the law is in common
3. Precedent means \_\_\_\_\_.  
A. the leader of the country      B. prior cases  
C. the director of an organization      D. the principle of case law
4. Who has the authority and duty to make laws by creating precedents? \_\_\_\_\_.  
A. jury      B. judges      C. lawyers      D. scholars
5. In practice, the decisions of a court are binding to \_\_\_\_\_.  
A. all jurisdictions      B. lower court's decisions  
C. only a particular jurisdiction      D. half of the jurisdictions



## II. Listen to the dialogue again and answer the following questions.

1. How does the common law system work?
2. Are there any requirements while *stare decisis* is applied?
3. Give an example to show how a case has binding authority or persuasive authority on future cases.

### Dialogue 2



#### Words and Expressions

methodological	方法的
source of law	法律渊源
default	不到庭, 未到案
analogy	类推, 类比
judicial review	司法审查
federalism	联邦制

## I. Listen to the dialogue and choose the best answer.

1. The difference between civil law and common law lies \_\_\_\_\_.  
 A. only in the fact of codification                      B. just in the mere fact of codification  
 C. not just in the mere fact of codification      D. always in the fact of codification
2. Which of the following statement is NOT right? \_\_\_\_\_.  
 A. Civil law is also called Roman law  
 B. Civil law is also called continental law  
 C. Civil law is derived from Roman Empire  
 D. Civil law is also called canon law
3. Which of the following statements is right? \_\_\_\_\_.  
 A. Civil law is quite different from classic Roman law  
 B. Civil law and classic Roman law have a lot in common  
 C. Civil law is developed from canon law  
 D. Common law and civil law have nothing in common
4. The UK has no written constitution, so \_\_\_\_\_.  
 A. constitutional cases are decided through constitutional provisions in other body of laws  
 B. there is no way to handle constitutional issues  
 C. they cite constitutions of other countries  
 D. they are preparing for creating written constitution

## II. Listen to the dialogue again and answer the following questions.

1. What would be the judge's response if clients go by default in the civil law system?



2. What would be the respective responses if there are constitutional cases?
3. List at least three differences between common law and civil law.

## Part III Listening Comprehension



### Words and Expressions

commonwealth countries	英联邦国家
outlaw	取缔,宣布……为不合法
bills of attainder	极刑惩处法案,剥夺公权法案
duty of care	注意的义务
common carriers	公共承运人,运输业者,运输公司
Statute of Frauds	防止欺诈法
descendant	后裔
diverge	偏离,分歧
persuasive	有说服力的
cite	引用,援引
Blackstone	布莱克斯通(英国法官和教育家)

#### I. Listen to the passage and choose the best answer.

1. The United States is heir to the \_\_\_\_\_ tradition of English law.  
A. common law      B. civil law      C. canon law      D. social law
2. Certain practice traditionally allowed under English common law were expressly outlawed by the Constitution, such as bills of attainder and \_\_\_\_\_.  
A. general warrants      B. general search warrants  
C. arrest warrant      D. Johnny warrants
3. American judges, like common law judges elsewhere, not only apply the law, but also \_\_\_\_\_.  
A. make the law      B. meet the law      C. correct the law      D. make the law
4. All states of the U. S. A. \_\_\_\_\_ have enacted "reception statutes".  
A. except Indiana      B. except Louisiana  
C. including Indiana      D. including Louisiana
5. Contemporary U. S. courts often cite \_\_\_\_\_ when discussing the evolution of an ancient judge-made common law principle into its modern form.  
A. non-revolution cases      B. revolutionary cases  
C. pre-revolution cases      D. post-revolution cases
6. Such English statutes are still regularly cited in contemporary American cases interpreting \_\_\_\_\_.



- A. their modern decisions                      B. their modern American descendants  
C. American precedents                      D. their American models
7. American courts rarely follow post-revolution commonwealth rulings \_\_\_\_\_.  
A. unless there is no American ruling on point  
B. unless there is American ruling on report  
C. unless there is no American ruling  
D. and there is less American ruling on report
8. Citations to English decisions in America gradually disappeared \_\_\_\_\_.  
A. during the 9th century                      B. during the 18th century  
C. during the 19th century                      D. till the 19th century
9. The number of published volumes of American reports soared from 18 in 1810 to \_\_\_\_\_.  
A. over 18,000 by 1910                      B. over 80,000 by 1910  
C. over 8,000 by 1919                      D. over 8,000 by 1910
10. American courts \_\_\_\_\_, a famous old case or a nod to Blackstone.  
A. occasionally said a British classic or two  
B. occasionally cite a British classic or two  
C. always cite a British classic, too  
D. never cite a British classic or two

## II. Listen to the passage again and discuss the following topics.

1. The spreading of common law
2. The influences of British law on American law in modern times
3. American attitudes towards cases (precedents) outside the country

## Part IV Supplementary Material



### Words and Expressions

Romano-Germanic	罗马-日尔曼法系
codification	法典编纂
legislature	立法机关
parliament	议会, 国会
Code of Hammurabi	《汉谟拉比法典》
<i>Corpus Juris Civilis</i>	《民法大全》
Emperor of Justinian	查士丁尼皇帝
Byzantinian Empire	拜占庭帝国
Islamic law	伊斯兰法律



equity	平衡法
overrule	推翻
aristocracy	贵族
judiciary	法官;司法制度;司法的、法官的
legislation	立法
collective	集体(所有)
Sharia	伊斯兰教教法
Fiqh	伊斯兰教的法律学
Ulema	神学学者, 乌里玛(阿拉伯文的音译), 由教法学家和神学家组成的乌里玛委员会, 乌里玛委员会的成员
orthodox	正统的, 规范的
ecclesiastical	基督教的, 与教会有关的
revelation	启示, 揭露
Roman Catholic Church	罗马天主教
Eastern Orthodox	东正教
Anglican Communion	英国圣公会



## Listening Script

## Different Types of Legal System

The legal systems of the world today are generally based on one of four basic systems: civil law, common law, socialist law and religious law—or combinations of these. However, the legal system of each country is shaped by its unique history, and so incorporates individual variations.

**Civil law**

Civil law is the most widespread system of law around the world. It is also sometimes known as Continental European law. The central source of law that is recognized as authoritative is codifications in a constitution or statute passed by legislature, to amend a code.

Codified systems are basic laws that are set out in codes. A code is simply a body of laws. These are statutes enacted by national parliaments that arrange whole fields of law in an orderly, comprehensive, and logical way. Today, most European countries have national codes based on blend of customary and Roman law that makes the resulting systems members of the Romano-Germanic legal tradition.

While the concept of codification dates back to the Code of Hammurabi in Babylon ca. 1790 BC, civil law systems mainly derive from the Roman Empire, and more particularly, the *Corpus Juris Civilis* issued by the Emperor Justinian ca. AD 529. This was an extensive reform of the law in the Byzantine Empire, bringing it together into codified documents. Civil law was also partly influenced by religious laws such as canon law and Islamic law. Civil law today, in theory, is interpreted rather than developed or made by judges. Only legislative enactments (rather than





judicial precedents, as in common law) are considered legally binding.

Scholars of comparative law and economists promoting the legal origins theory usually subdivide civil law into several groups.

French civil law: in France, the Benelux countries, Italy, Romania, Spain and former colonies of those countries;

German civil law: in Germany, Austria, Switzerland, former Yugoslav Republics, Greece, Portugal, Turkey, Japan, South Korea and the People's Republic of China;

Scandinavian civil law: in Denmark, Norway and Sweden. As historically integrated in the Scandinavian cultural sphere, Finland and Iceland also inherited the system.

### Common law

Common law and equity are systems of law whose sources are the decisions in cases by judges. Alongside, every system will have a legislature that passes new laws and statutes. The relationships between statutes and judicial decisions can be complex. In some jurisdictions such statutes may overrule judicial decisions or codify the topic covered by several contradictory or ambiguous decisions. In some jurisdictions, judicial decisions may decide whether the jurisdiction's constitution allowed a particular statute or statutory provision to be made or what meaning is contained within the statutory provisions. Statutes were allowed to be made by the government. Common law developed in England, influenced by the Norman Conquest of England which introduced legal concepts from Norman law, which in turn was influenced by aspects of Islamic law. Common law was later inherited by the Commonwealth of Nations, and almost every former colony of the British Empire has adopted it (Malta being an exception). The doctrine of *stare decisis* or precedent by courts is the major difference to codified civil law systems.

Common law is currently in practice in Ireland, most of the United Kingdom (England, Wales and Northern Ireland), Australia, New Zealand, India (excluding Goa), Pakistan, South Africa, Canada (excluding Quebec), Hong Kong of China, the United States (excluding Louisiana) and many other places. In addition to these countries and places, several others have adapted the common law system into a mixed system. For example, Nigeria operates largely on a common law system, but incorporates religious law.

In the European Union the Court of Justice takes an approach mixing civil law (based on the treaties) with an attachment to the importance of case law. One of the most fundamental documents to shape common law is *Magna Carta* which placed limits on the power of the English Kings. It served as a kind of medieval bill of rights for the aristocracy and the judiciary who developed the law.

### Socialist law

The origins of the socialist legal system can be traced back to the 1917 Bolshevik Revolution, which gave birth to the Union of Soviet Socialist Republics. The objectives of classical socialist law are threefold. First, law must provide for national security. Ideally, the power of the state must be consolidated and increased to prevent attacks on the socialist state and to assure peaceful coexistence among nations. Second, law has the economic task of developing production and distribution



of goods on the basis of socialist principles so that everyone will be provided for according to his needs. The third goal is that of education; to overcome selfish and antisocial tendencies that were brought about by a heritage of centuries of poor economic organization.

The source of socialist law is legislation. Socialist law rejects the idea of separation of powers. The central notion of socialist law is the notion of ownership. Socialist law is unique with respect to "socialist" ownership, of which there are two versions; collective and state. A typical example of collective ownership is the collective farm, which is based on nationalized land. State ownership prevails in the industrial sector in the form of installations, equipment, buildings, raw materials and products. Versions of this type of legal system still exist in China, Cuba, North Korea and Vietnam.

### Religious law

Religious law refers to the notion of a religious system or document being used as a legal source, though the methodology used varies. For example, the use of Jewish Halakha for public law has a static and unalterable quality, precluding amendment through legislative acts of government or development through judicial precedent; Christian Canon law is more similar to civil law in its use of civil codes; and Islamic Sharia law (and Fiqh jurisprudence) is based on legal precedent and reasoning by analogy (Qiyas), and is thus considered similar to common law.

The main kinds of religious law are Sharia in Islam, Halakha in Judaism, and canon law in some Christian groups. In some cases, these are intended purely as individual moral guidance, whereas in other cases they are intended and may be used as the basis for a country's legal system. The latter was particularly common during the Middle Ages.

The Islamic Legal System of Sharia (*Islamic law*) and Fiqh (Islamic jurisprudence) are the most widely used religious law, and one of the three most common legal systems in the world alongside common law and civil law. It is the most protected divine law, because, the majority of the rulings of Sharia law are based on the Qur'an and Sunnah, while a small fraction of its rulings are based on the Ulema (jurists) who used the methods of Ijma (consensus), Qiyas (analogical deduction), Ijtihad (research) and Urf (common practice) to derive Fatwā (legal opinions). An Ulema was required to qualify for an Ijazah (legal doctorate) at a Madrasah (school) before they could issue Fatwā. During the Islamic Golden Age, classical Islamic law may have had an influence on the development of common law and several civil law institutions. Sharia law governs a number of Islamic countries, including Saudi Arabia and Iran, though most countries use Sharia law only as a supplement to national law. It can relate to all aspects of civil law, including property rights, contracts or public law.

The Halakha is followed by orthodox and conservative Jews in both ecclesiastical and civil relations. No country is fully governed by Halakha, but two Jewish people may decide, because of personal belief, to have a dispute heard by a Jewish court, and be bound by its rulings.

Canon law is not a divine law, properly speaking, because it is not found in revelation. Instead, it is seen as human law inspired by the word of God and applying the demands of that revelation to the actual situation of the church. Canon law regulates the internal ordering of the Roman Catholic Church, the Eastern Orthodox Church and the Anglican Communion. Canon law is