

全国高职类院校专业外语统编教材
“一带一路”建设涉外法律人才培养核心教材

基础 法律英语教程

BASIC
LEGAL ENGLISH

张法连 主编



北京大学出版社
PEKING UNIVERSITY PRESS



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前言

随着中国经济和社会的迅速发展,涉外法律工作的重要性日益突显。十八届四中全会提出加强涉外法律工作;司法部、商务部、外交部和国务院法制办联合印发了《关于发展涉外法律服务业的意见》,对大力发展涉外法律服务业做出全面部署。中国已正式进入了法律服务的全球化时代。“一带一路”国家战略成为国际合作的新平台,其实质是国家的重大涉外经济工程。涉外法律工作是涉外经济活动的重要保障,法律英语则是完成涉外法律工作不可或缺的工具。“一带一路”建设离不开法律英语的保驾护航。同时,随着高校外语教学改革不断深化,法律英语已成为 ESP 最重要的分支之一,许多高校在外语院系开设了法律英语课程或设置了法律英语方向,收到了良好的社会效果。培养能够适应法律服务国际化要求的复合型涉外法律人才是时代发展的必然需要。

法律英语是法律科学与英语语言学有机结合产生的一门实践性很强的交叉学科。在专门用途英语 (English for Specific Purposes) 中,法律英语最具特色。法律用语和法律文件等都具有鲜明的特点,要求采用严格的、规范的、正式的语体。法律文化的差异也对法律语言的理解造成了障碍,这些都对英语语言的掌握和运用提出了更高的要求。法律英语的教学就是为了满足这一专门需要而应运而生的。法律英语对于法律人外有人的重要性不言而喻,掌握法律英语,就等于突破了国内相对狭窄的地域限制,展翅高翔,可以让我们“飞得更高,看得更远”,从而从容接轨全球法律服务市场。

本教材主要是以介绍美国法为主线。美国法是英美法系的典型代表,其法律体系完整、内容丰富,既有传统的普通法,又有新兴的成文法;既有统一的联邦法,又有各州的法律。同时,美国法在世界范围内影响深远,很多国家都在研究、借鉴其做法,许多国际公约也参照美国法的理念、原则和规则制订。通过本教材的学习,既能学习以美国法为代表的西方法律知识,又可以提高在涉外法律这一特定领域内的英语听、说、读、写、译的技能。

此外,本教材还具有以下特点:

首先,针对法律英语初学者,本教材的内容较之其他法律英语教材更为简单和浓缩,容易接受。教材前四章以对话这一日常的语言形式来导入,初步展示了法律英语运用的语言环

境和语体特征,简单介绍了普通法常见的法律关系和法律概念。随后以篇章的形式由浅入深地介绍了法律文化和美国的部门法。在阅读材料的选取中,本教材特别注意选取难度适中的材料,确保绝大多数初学者可以轻松阅读。

其次,本教材对英美法律文化进行了系统介绍,包括法庭礼仪和服饰、遵循先例、律师的职业和道德、普通法和成文法传统、陪审团制度、法院系统、法律教育等等。语言是文化的载体,法律英语的学习不能忽视英美法律文化知识。

再次,本教材设计编写体系完备。在介绍了英美法律文化之后,又用十个章节的篇幅介绍了美国主要的部门法,如宪法、合同法、侵权法、物权法、证据法、知识产权法、刑法、刑事程序法、民事程序法和商法。考虑到“一带一路”建设的实际需要,本教材还增加了对WTO制度的简单介绍。

本教材在每章节后都附有相关的练习题,以帮助学习者检查课堂内容的掌握程度,查漏补缺。在编写本书的过程中,我们参考了大量国内外有关资料,在此谨对原作者表示诚挚的感谢。

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UNIT 1

REPORTING A CRIME

(A woman goes into a police office to report a crime.)

A= Police officer; B=Woman

A: Can I help you?

B: I want to report a crime, sir.

A: What's happened?

B: I can't find my car. Somebody must have stolen it about 40 minutes ago.

A: Where did you park the car?

B: On the parking lot at the entrance to the post office.

A: Where's the post office? The specific address, I mean.

B: It's on Zhongshan Road, just the **opposite** to the Bank of China. There's a **crossroads** nearby. But I don't quite remember the street number.

A: Where did you go after parking the car?

B: I went to the post office to mail a **package**. It was probably ten twenty at that time. There were many people **queuing** in the office. So it took me nearly 30 minutes to finish the work. When I went out of the gate, I found my car disappeared.

A: Could you please describe the car? What type of car is it?

B: It's a Toyota 2000. I bought it in 1998.

A: What's the color?

B: Light brown.

A: And the number of the **license plate**?

B: AX11211.

A: OK. We'll start the **investigation** at once. We'll contact you as soon as it's found.

Please leave your name and your phone number.

B: Thank you, sir.

New Words & Expressions

opposite	['ɒpəzɪt]	adj.	相反的; 对面的; 对立的
		n.	对立面
crossroad	['krɒs,rəʊd]	n.	十字路口; 交叉路; 岔道
package	['pækɪdʒ]	n.	包裹
queue	[kju:]	vi.	排队; 排队等候
		n.	队列; 长队
license plate	['laɪsəns plət]	n.	牌照
investigation	[ɪn'vestrɪ'geɪʃn]	n.	调查

Exercises

I. Translate the following dialogue.

A: 警察先生, 我要报案。

B: 发生了什么事?

A: 我的手提包被抢了?

B: 什么时候被抢的?

A: 就在刚才, 大概 15 分钟以前。

B: 在哪里被抢的? 怎么被抢的?

A: 我去超市买东西, 刚走出门口没几步, 有个男的从我身后一把抢过我的手提包就跑。

我想追上去, 可他一会儿就不见了。

B: 你的手提包是什么样的?

A: 是个粉红色的手提包, 幸运鸭牌的, 还很新。携带上还系一个钥匙扣。

B: 手提包里装有什么东西?

A: 装有钱包、手提电话、一把黑色的雨伞。钱包里有 300 元, 还有工作证和身份证。

B: 那个男的长得怎么样? 你能描述一下吗?

A: 不太高, 瘦瘦的, 留有胡子。

B: 穿什么样的衣服? 什么颜色的?

A: 白色的长袖上衣, 深蓝色的牛仔裤。我不太肯定。

B: 就这些, 还有什么要补充吗?

A: 没有了。我就记得这么多。

B: 好的。把你的姓名、住址和联系方式留下来。我们会尽快展开调查, 一有消息就通知你。

II. Role-play

Work in pairs, making up dialogues according to the following situation: You are walking home in the evening. The street is quiet. A man behind you takes out a knife, threatening you to surrender all your possessions to him. You have no choice but to obey. After he runs away, you go to the police station to report the hold-up. Take turns to be the victim and the police officer.

UNIT 2

CONSULTING A LAWYER

(A person from a joint-venture company goes to a law office to hire a lawyer who can represent his company in a lawsuit.)

A= lawyer; B=client

A: Is there anything I can do for you, sir?

B: Yes. Our company is engaged in a lawsuit concerning international trade. We'd like to engage a lawyer to act on our behalf. Could you tell me if we can engage a lawyer from your law firm?

A: I think you've come to the right place. To be honest, we have rich experience in handling cases involving foreign-related matters. We have a lot of excellent lawyers who have both a good command of English and legal expertise.

B: Really? That's wonderful. What if we'd like to engage your firm to act on our behalf?

A: Our practice is we will have a face-to-face talk about the case and lawyer fee first. After we reach a **consensus**, you'll be presented with a formatted agreement of **entrusted** agency for your reading and signature.

B: What's the agreement about?

A: It includes without limitation entrusted matters, lawyer's mode of work, **sphere** and description of **authorization** by the client, sum and mode of payment, **default**, terms of **revocation** and settlement of disputes, etc.

B: Can I have a look at a sample agreement?

A: Sure. Here it is.

B: If there's disagreement as to the terms **stipulated** in the agreement, is there any possibility of making changes?

A: Yes. As I said earlier, the agreement is based on what we agree on.

B: I see. After concluding the agreement, what shall I do?

A: You must present us with a power of **attorney**.

B: What do you mean by a power of attorney?

A: A power of attorney is a legal instrument which specifies matters, terms and scope of attorney.

B: Anything else?

A: Then perform your obligation of paying the bill and cooperating with your lawyer and meantime enjoy your lawful rights in your **litigation** or non-litigation process.

B: I see.

A: OK. Please feel free to contact me if you have any question.

B: Thank you for your information and time.

New Words & Expressions

consensus	[kən'sensəs]	n.	一致；舆论；一致同意，合
entrust	[ɪn'trʌst]	vt.	委托，托付
sphere	[sfɪə(r)]	n.	球(体)；(兴趣或活动的)范围；势力范围；天体，如行星或恒星
		vt.	形成球体；包围，围绕；置于球面内部
authorization	[ˌɔ:θəraɪ'zeɪʃn]	n.	授权，批准；批准(或授权)的证
default	[dɪ'fɔ:lt]	vi.	未履行任务或责任；受传唤时未出庭；由于不到庭而败诉；弃权
		vt.	未履行，拖欠；未参加或完成(例如，比赛)；[法]因未到庭而败(诉)
		n.	未履行，拖欠；[法]未到庭；弃权；[计]缺省，默认

revocation	[revə'keɪʃn]	n.	废止, 撤回
stipulate	['stɪpjuleɪt]	vt.	(尤指在协议或建议中)规定, 约定, 讲明(条件等)
		vi.	规定, 明确要求
attorney	[ə'tɜ:nɪ]	n.	代理人; 律师
litigation	['lɪtɪ'geɪʃn]	n.	(律)打官司; 诉讼

Exercises

I. Change the sentences to a more polite form.

1. Be sure to arrive on time for your scheduled appointment.
2. Is there any possibility of winning the case?
3. What do I do if I just cannot afford a quality lawyer?
4. Please recommend a good lawyer to me.
5. Tell me when the court will hear this case.

II. Role-play

Work in pairs; try to give your advice or recommendation for the following situations: Your cooperating partner fails to perform its contractual obligations.

UNIT 3

ARBITRATION

(A client is considering an alternative resolution to the traditional court process in his dispute. He is consulting his attorney about the settlement.)

A= Attorney; B=client

A: What's your problem?

B: I decide not to go to court. You know it often takes lots of time and money to go to court. May I have any other options?

A: Of course, you may turn to **ADR**.

B: Excuse me, what do you mean by ADR?

A: It stands for Alternative Dispute Resolution to the traditional court process.

B: That's exactly what I'm interested in. Is it a new thing?

A: No. Alternative Dispute Resolution to the traditional court process.

B: That's exactly what I'm interested in. Is it a new thing?

A: No. Alternative Dispute Resolution is not a new idea in the judicial system. Most parties settle civil cases before going to court. Courts often use a variety of techniques to bring about voluntary cases before going to court. Courts often use a variety of techniques to bring about voluntary settlement such as pre-trial settlement conferences, **mediation** by **magistrates**, court-related **arbitration**, and mediation in the judge's **chambers**, etc.

B: Then which forms do people most often use?

A: It really depends on the individuals. Generally the local dispute resolution centers offer two forms of negotiation: mediation and arbitration.

B: What does each of these methods involve?

A: Mediation is used primarily in labor-management grievances. It helps the parties reach an agreement and offers recommendations for settlement. The recommendations are not binding on the parties. The function of mediation is basically advisory.

B: How about arbitration?

A: Arbitration should be distinguished from mediation. Arbitration is an important method of resolving commercial disputes out of court. The award of the arbitrator is final and binding on the parties. Arbitration performs a judicial function and decides disputes between parties.

B: What types of cases use arbitration most often?

A: Commercial, insurance, and labor-management disagreements widely use arbitration.

B: So is arbitration applied to my case?

A: Yes of course. Your case concerns a commercial contract. Arbitration is applicable.

B: Compared with court proceedings, is arbitration a better method to resolve a dispute?

A: It's hard to say which is better. Both have advantages and disadvantages. Arbitration may be less formal, but less complex, and less costly than court cases. And it has privacy, and often ends more quickly. Although it does not replace the court, arbitration is an effective **alternative** to formal court **litigation** in certain types of **controversies**.

B: How about mediation then?

A: Mediation is an informal process where a mediator helps those involved resolve their problems by identifying, defining, and discussing the things about which they disagree. It has privacy and speedy resolution. But it is not binding or enforceable.

B: Well, I prefer to use arbitration to settle my dispute.

New Words & Expressions

ADR: “Alternative Dispute Resolution”的缩写, 替代性纠纷解决方式; 替代性争议解决机制; 替代性纠纷解决机制; 非诉讼纠纷解决机制; 替代性纠纷解决。

mediation	[ˌmi:dr'eɪʃn]	<i>n.</i>	调停, 调解, 斡旋
magistrat	[ˈmædʒɪstreɪt]	<i>n.</i>	地方法官, 治安官; 文职官员; 治安推事
arbitration	[ˌɑ:brɪ'treɪʃn]	<i>n.</i>	仲裁, 公断
chamber	[ˈtʃeɪmbə(r)]	<i>n.</i>	室, 卧室, 会客室; 内庭; (多用于英国) 律师的办公室; 议事厅
		<i>vt.</i>	限制, 幽禁, 封闭或限制; 使备有房间
alternative	[ɔ:l'tɜ:nətɪv]	<i>adj.</i>	替代的; 备选的; 其他的; 另类的
		<i>n.</i>	可供选择的事物
litigation	[ˌlɪtɪ'geɪʃn]	<i>n.</i>	(律) 打官司; 诉讼
controversy	[ˈkɒntrəvɜ:rsɪ]	<i>n.</i>	公开辩论; 论战

Exercises

I. Interpret the following dialogue.

A: I had some disputes in business with Peter. I was wondering how to settle them?
 What's your opinion, Mr. White?

B: Do you want to sue him?

A: If I go to court, it will take me lots of time and energy. Time is money, you know.
 What's more, Peter is my old client. I don't want to break our relationship. Any other options?

B: Yes. Have you ever heard about ADR before?

A: Yes. It seems to refer to Alternative Dispute Resolution to the traditional court process.

B: Yes. It has many forms including arbitration, mediation, and negotiation and so on.
 You can think them over.

A: Which one is better?

B: Each has both advantage and disadvantage. It depends on the situation. Generally, mediation is used primarily in labor-management grievances. It helps the parties reach