ESPACIOS
REVISTA

Project-based activities and a comparative cultural analysis of terminology for law

Actividades basadas en proyectos y un análisis cultural comparativo de la terminología del Derecho

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ABSTRACT:

Cultural competence can be enhanced by investigating the nature of words and speech patterns, research in etymology and making comparisons with students' mother tongue. A closer look at subject-specific modes of speech fosters greater cultural awareness, aids memorization and develops translation skills, while motivating students and generally supporting their professional development. This paper presents an overview of the methodological approaches to cultural studies in ESP and describes a project on cultural awareness for bachelor of law students.
Keywords: language for specific purposes, project-based learning, terminology, semantic analysis

RESUMEN:

La competencia cultural se puede mejorar investigando la naturaleza de las palabras y los patrones del habla, investigando en etimología y haciendo comparaciones con la lengua materna de los estudiantes. Una mirada más cercana a los modos de habla específicos de cada tema fomenta una mayor conciencia cultural, ayuda a la memorización y desarrolla habilidades de traducción, al tiempo que motiva a los estudiantes y generalmente apoya su desarrollo profesional. Este artículo presenta una visión general de los enfoques metodológicos de los estudios culturales en ESP y describe un proyecto sobre conciencia cultural para estudiantes de licenciatura.
Palabras clave: lenguaje para propósitos específicos, aprendizaje basado en proyectos, terminología, análisis semántico

1. Introduction

1.1. Culture and Language

According to White (1959), to some, culture is learned behavior. To others, it is not behavior at all, but an abstraction from behavior - whatever that is (p. 227). He stated that any things, acts or events are dependent upon "symbolling". When they are considered and interpreted in an extra-somatic context, i.e. in terms of their relationships to one another rather than to human beings, they can be called culture (White, 1959, p. 231). Language and culture have one feature in common – both are symbolic in nature. Language is a universal semiotic system; all symbols are denoted by words. Hoffer (2002) found that cultural issues in teaching languages represent a field of sociolinguistics, which may merely means a descriptive study, or it could mean seeking to solve linguistic problems of social behavior (p. 5).

1.2. Teaching Culture

Frank (2013) thinks of the cultural component introduced by language teachers as "surface culture" being presented by ideas about food, national costumes, traditional music and dance, literature, and specific holidays. He also talks about sub-surface culture, which includes notions of courtesy, body language, gestures, touching, eye contact, personal space, facial expressions, conversational patterns, and the concept of time (p. 3). Consequently, there are two approaches to teaching culture within a language. One being the transmission of factual, cultural information (Thanasoulas, 2001, p. 3). The other approach is seen as embedding culture within an interpretive framework and establishing connections, namely, points of reference or departure, between one's own and the target country (Thanasoulas, 2001, p. 4).

The cultural component of language studies has always been in the spotlight. Thus, Thanasoulas's investigation (2001) concluded that high culture – art, literature, music and the like are external expressions of culture and are easily taught to students just by including the issues in the curriculum. He states that the most important part of culture for the sojourner is that which is internal and hidden, but which governs behavior (p. 4).

Laddicoat et al. (2003) are more specific about the dichotomy between the various components of culture involved in learning languages. They say cultural issues may be expressed through context, the general structure of text, within utterances, in norms of interaction (the selection of language units) and the language itself (grammar, lexis, prosody, pronunciation and kinesics) (p. 9).

Holme (2003) believes that culture can be introduced into the language curriculum in accordance with five principles: (the communicative, classical-curriculum, culture-free-language deconstructionist and competence views) (p. 18). The five views are interrelated, comprising ideas about language for quick use in a specific context, the alien modes of thought and the hidden political and cultural agenda of a language. These implicit messages can be deciphered through a competence of grasping language's true meaning (Holme, 2003, p. 18-19).

The European Qualifications Framework for Lifelong Learning (2008) sees sociocultural competence education as an active process of creation of knowledge and meanings, which should primarily be directed towards learners' real-life, current and potential future needs (p. 11). These needs include intercultural competences, though Halbach (2003) indicates that the idea of 'exporting' methodologies from one country (and culture) to another ignores the importance of personal and cultural factors in learning (p. 51). Saville-Troike (1978) supports this opinion by stating that cultural issues are evident in instruction dependent on the learning styles that students bring to school, curriculum (contents of a language course) and testing, which is itself a social event" (p. 31-35).

Scholars who research English for Specific Purposes (ESP) emphasize that language is valuable not because it affords insights into universal structures, but because it is particularly sensitive to different social settings, particularly imbued with the social life that it is a part of (Mertz 2007, p. 17).

Wierzbicka (1999) believes all languages have words with meanings corresponding exactly to the meanings of the English words such as 'good' and 'bad' as these are universal concepts and can, therefore, be used as elements of a semantic metalanguage independent of culture (p. 35).

Moreover, at the time of globalization, scholars in subject-specific disciplines increasingly vote for unification and harmonization of terminology on an international level. They consider it a tool to eliminate misunderstandings and promote a common framework for international cooperation. Thus, we witness the increase in the use of borrowed items instead of native words in languages for specific purposes. The use of borrowed words can also eliminate emotions; reduce evaluation and motivation for non-native speakers, promote stylistic neutrality, mono semantics, eliminate undesirable connotations, serve as a tool for the compression of language material and   lexical development.

1.3. Loan Words in Terminology

Speaking about interlingua borrowings, Valeontis & Mantzari (2006) distinguish primary term formation (a new concept and its name) and secondary term formation (a foreign substitute for an existing term) which may occur for such reasons as standardization or fashion (p. 2).

Quantitative analysis shows that cases of imported English terms (transliterations and calks) into Russian may constitute approximately 58 % of all terms used in a terminological system. In addition, within just one subject-specific text, borrowed items may represent one quarter of all the words used.

So, what are the implications of the globalization trend? Do cultural peculiarities still matter? In order to find out if students should be taught cultural awareness, an extra curriculum project on intercultural comparisons for bachelor of law students was introduced.

2. Methodology

2.1. Implicit and Explicit Instruction

The importance of bilingual instruction cannot be underestimated. Gajšt (2011) draws attention to cases where differences exist between two language systems, e.g. in the field of accounting there are some terms that are not compatible internationally (p. 21).

Ho (2009) suggests that instruction on developing the cultural component may include points like exploring self, observation, cultural exploration, comparisons, reflections and mediation between cultures (pp. 64-65).

In fact, instruction can be divided into explicit and implicit techniques. In both types of instruction a teacher is to combine aspects of social (helping others to understand the ideas and concepts), cognitive (classifying, comparing, matching, selecting, predicting, guessing and sequencing) and situational teaching techniques. The teacher's main concern, therefore, is to make students aware of social and cultural peculiarities of the professional language, let them interpret the text and come to their own understanding within the framework of language classroom activities. That may sometimes mean the transfer of 'legalese' structures into general English forms. The approximate scheme for studying a legal text may be summarized as follows:

• Looking for specific language units in a text (terms, borrowings, archaic words, specific language forms and structures) and explaining their meaning in English. One may use a dictionary, linguistic and/or cultural guides, prediction, guessing, comparing techniques or the teacher's explanation;

• Drills prepared by a teacher based on cognitive skills like classifying, comparing, matching, selecting, sequencing, interpreting, paraphrasing, etc.;

• Contextualizing through a set of communication events (discussions, role-play, case studies, projects, etc.)

In explicit types of instruction, particular attention should be paid to translation and the use of dictionaries. ¿Do students need to be taught translations? There are some reasons to think so. Firstly, students implicitly translate what they read or hear in a foreign tongue into their mother language for better comprehension and semantic analysis. That is why we speak about language interference. Secondly, translation is a teaching tool that may help not only comprehend the message but also to provide more practice in the process of language acquisition. Thirdly, by comparing their mother tongue with foreign languages, students expand their cultural and professional awareness.

Melnichuk & Osipova (2017) believe that teaching students to translate can represent a multidimensional issue. They enumerate several approaches to teaching translation: the structural approach (differences in the phonetic, semantic, lexical, syntactic and pragmatic structures), the cultural approach (culturally stipulated gaps in knowledge about language and its concepts) and the professional approach (i.e. knowledge about that particular vocational field) (p. 26).

In fact, the cultural approach is present in the other two types as well, since language structures and terminology always contain some verbal cultural elements.

Another cornerstone is the use of dictionaries – linguistic, non-linguistic, monolingual, bilingual, phraseological, synonym dictionaries, etc. Extensive use of dictionaries provides information and expertise in general vocabulary expansion.

Moreover, the importance of context as one of the most important elements for defining the true meaning of a word was emphasized. Using corpora in both the language studied and the mother tongue can be a useful resource for stimulating cognitive classroom activities.

Another point to consideration in organizing classroom activities is commentary – oral discussions and written tasks. Discussing the information students get from dictionaries can subsequently be supplemented with written tasks such as compiling word maps and writing essays about the cultural peculiarities of the words. Ivanishcheva (2016) finds it difficult to draw a line between the definition of a lexical meaning of a word and additional information about realia, which are a part of a commentary (p. 81).

2.2. A Project on Cultural Awareness and Terminology Research

We carried out the project in order to find out if cultural issues still stand out and are noticeable for students majoring in law.

The underlying methodology includes the stages of empirical research in terminology for law and gathering feedback from the participants.

The textual input was drawn from educational literature (textbooks such as International Legal English by Amy Krois-Lindner and Jeremy Day), additional reading from mass media sources (e.g., The Economist), legal documents (directives, agreements, letters and pleadings) and scientific literature from open information sources selected according to the topics students study, as specified by their main course syllabus. Students read and selected terms and terminological units as their homework assignments. They conducted a comparative analysis of semantics, etymology, the degree of metaphorization, contextual use, peculiarities of translation, concept making and socially significant interpretation of about 1,000 English and Russian legal terms. The findings were organized as a Google Table resource open to all participants for correction and discussion input.

Students also gathered once a week throughout the term to report on their activities and present and discuss their findings. The teacher also issued instructions on the use of translation techniques, recommended dictionaries and expanded on properties of terms in respect of their concept-making functions. Students exchanged notes and discussed the contextual use of selected terms. These synthesizing activities allowed for analysis of the input and deduction of the meanings and functions of terms, i.e. the use of Latin words and archaisms, etymological insights, language parallels between English and Russian and comparisons of speech formulae in the source and target languages.

To evaluate the didactic value of the project, student feedback was sought. In fact, students were asked to assess the impact the activities carried out within the project framework had on the processes of:

• memorization (¿did insights into the meaning of words help you remember these words better?)

• professional development (has the project helped you develop professionally – to acquire new knowledge in the area of your specialization?)

• skills in translation (are you now more or less able to translate professional texts?)

• intercultural tolerance (did the information you got during the project change your attitude to the other nation's way of life?)

• motivation in studying a foreign language (¿are you more motivated to study English now?)

• communication skills (do you have fewer difficulties in communication with foreigners now?)

Thirty students, participants in the project, were asked to answer the questions and score each answer on a scale from 0 to 6 (where 0 is "no", 1 "I doubt it", 2 "probably", 3 "more yes than no", 4 "yes, a bit", 5 "yes, definitely" and 6 "yes, very much").

3. Results and Discussion

3.1. The Language Content of the Project

Legal English generally developed from Latin, old French and old English. Therefore, legal English terms tend to come from one of three groups: Latin words, loans commonly used in modern language and some archaic words of different language origin.

Actually Latin words like *lex loci actus*, *res gestae*, *corpus delicti, lex domicilii, bona fides* retain their meanings and spellings but are pronounced in a different way. Some of them are contractions, for instance, *vs.* (versus / against). Latin is on the curriculum of Law departments and students do not find it hard to understand such terms but there are some difficulties in pronunciation. It is also noted that Latin contractions are not used in Russian legal texts as often as in English.

Loans from old French substitute a very large group of historical elements in the language: *testament* (instead of will), *larceny* (instead of theft), etc.

The so-called 'douplets' can also be considered French borrowings: *goods and chattels, had and received, will and testament, fit and proper, free and clear.* The word combination *last will and testament* is the repetition of the same notion: a document that says what a person wants to do with his or her property after they die. Etymologically *testament* is a covenant, especially between God and humans, which reflects religious aspects of cultural life. In modern English *testament* is mostly used in either to mean evidence or a part of the Bible. Therefore, we can perceive this document as a sacred document; something that cannot be disputed. The Russian *завещание* does not have such reverent connotations.

The influence of French can be traced not only at a lexical level, but also in grammar. This is clearly illustrated with noun plus adjective structures, for example: *condition precedent, letters testamentary, malice aforethought*. Structures like this are not typical in legal Russian.

Archaism is the use of a form of speech such as a word, phrase or usage that has fallen out of general use, but is still used in professional register. One of the most striking examples is the use of archaic adverbs, adverbials and conjunctions that help to navigate throughout a legal document:

Therefore, in consideration of the premises, and the representations, warranties, covenants and undertakings of the parties hereinafter set forth, and for other good and valuable considerations, the parties agree among themselves as follows: …

These conjunctions have assisted lawyers in deductive reasoning since ancient times. They can be used for cognitive and logic operations like focusing, linking, connecting, structuring and sequencing. Legal language also uses formal and ceremonial phrases, e.g. *be it enacted by the Queen's most Excellent Majesty.*

Bookish words are frequently considered old-fashioned expressions and can easily be mistaken for archaic words. However, dictionaries usually define such words as literary or formal in tone. They are often used in legal documents in place of their neutral equivalents, for example *deem* instead of *consider*: *The distributor shall be deemed to include any hire or purchase of the same.*

These are common features for both English and Russian.

Another field of the legal language, which may reflect some cultural elements, is terminology. Terms as language units that denotes legal concepts. To understand them properly we need to compare the legal systems. The relatedness of the source-target languages (English and Russian in our case) can be misleading. The existence of false equivalents, such as *директор* meaning a boss (administrative duties) versus *director* as a member of the board of directors (mostly voting rights and supervision of decision-making in a company), proves it.

Many borrowed words undergo an internal lexical development, i.e. a new meaning is formed which does not exist in the original language (Stojani, Vrapi 2015, p. 82). These are the same words borrowed at different times from the same source language. *Fiscal policy – фискальный, денежный, налогово-бюджетный*. It is clear that *фискальный* takes on some negative connotations in Russian – despite initially being a neutral Latin word, which comes from *fiscus*. However, over time the word *фискальный* has come to be treated with disdain, meaning too much tax levied.

The merit of such intercultural comparisons lies in the fact that they help students' to expand their professional knowledge and to work out the competences necessary to work in an international environment. The historical background of a term's coinage, its etymology, is vitally important for understanding some professional issues. Thus, in order to understand the term *Basel I, II* and *III* one needs to know that the Basel Accords refer to the banking supervision accords (recommendations issued by the Basel Committee on financial institutions' capital requirements).

Intercultural discrepancies can affect denotation processes in the following fields:

• the legal profession and education;

• legal institutions and structural units;

• legal procedures.

For example, such English terms as *lawyer, counsel, advocate, attorney, solicitor*, and *barrister* do not have full equivalents in Russian. Therefore, they have to be explained through the functions these professionals perform and then compared to the Russian terms. The term *Queen's Counsel* is a title given to senior counsels, who must be barristers, when the sovereign is a woman. In English counsel may mean a person who provides legal representation but he does not need to be a barrister. The terms *judge, justice* and *magistrate* only have one Russian equivalent *судья*, but in English, they refer to different positions. In English there are two words used to denote a judicial assembly whose task is to hear and submit a decision on cases at law – *court* (a permanent body) and *tribunal* (ad hoc in nature but not necessarily connected with military cases), whereas in Russian the word *трибунал* refers to military language and has negative connotations. In England, the court hierarchy comprises, approximately in order of seniority, the European Court of Justice, the Supreme Court, the Court of Appeal (with its two jurisdictions – criminal and civil), the High Court of Justice (mostly civil) and the Crown Court (criminal), the County Courts (civil) and the Magistrates Courts (criminal). This structure is hardly comparable with the Russian court system, which is divided into constitutional, general (both civil and criminal) and arbitrage jurisdiction and has quite a different system of hierarchy.

Conceptual differences are found in the area of different legal procedures and notions connected with them. For instance, *direct action*, which is a form of criminal, aggressive contempt. Or *equity*, which is an additional source of law that can be used when justice is not done at common law. It has been in use since the 14th century and in the past was practiced in separate courts from those of common law. Both terms are impossible to translate into Russian in any but a descriptive way and these legal phenomena are either absent or have a different form in the Russian legal system.

Depending on the register of speech, words change their meanings. For example, *consideration* in a legal contract is monetary or some other value that is given in exchange, rather than reflection or discussion.

Students also have to know some commonly used abbreviations such as *All ER* or *WLR* that refer to the two series of law reports – The All England Law Reports and The Weekly Law Reports. In the names of cases, e.g., *Brown v. Brown, 1999 ND 199, 600 N.W.2d 869* the index attached to the case shows the registered number of the volume where the case record can be found.

The use of surnames can reflect cultural peculiarities of the language. In courts, for example, surnames are used without titles: *It is stipulated that Elliot advised Gilligan that…*

Differences between British and American English can be traced in legal documents. That is important as it helps students realize which country a document originates from: *Competition Law (Br) / Antitrust Law (Am), abuse of a dominant position / abuse of monopoly power.*

The next sphere where cultural context and background knowledge can be applied is the use of metaphorical expression and idioms in legal texts:

• *by the book* (following all the rules when you do something);

• *burden of proof* (the necessity to prove a disputed fact as required by the laws of evidence);

• *an act of God* (an event or accident due to natural causes for which no human is responsible and which could not have been avoided by planning ahead).

3.2. The Didactic Value of the Project

The results of the survey conducted with the aim of finding out the pedagogical effect of the work carried out are presented in Table 1.

Table 1

As you can see, the two didactic points most influenced by the project were professional development (in subsequent interviews students noted that they now know more about their specialization), memorization (it is much easier to remember a word if you have done some investigation into its meaning) and motivation. Participants were volunteers and the project was an extracurricular activity. Thus, it is quite possible that the participants' motivation was the result of their own educational preferences. Translation techniques, a part of the instruction on the project, were duly developed and assessed highly by the participants. The disappointing point is the lack of communication activities.

4. Conclusions

The rationale for the project was based on   didactic theories relating to intercultural competence, various types of classroom instructions and content and project-based approaches to teaching ESP. The content component was provided by the insights into semantics, etymology, translation studies and lexicography. The results show that some research into the nature and meaning of words can enormously enhance students' cultural awareness.

The survey conducted at the end of the project suggests that such projects help students acquire professional knowledge; boost their cognitive abilities and translation skills.

Still the lack of communicative activities as part of the project was a weak point. On the one hand, projects allow collaborating orally and working out a scheme for organizing professional knowledge in mental blocks or conceptual fields, and introduce perspectives for further investigations. Cojocariu et al. (2016) state that project-based learning appeared as an antithesis to a rigid top down one size fits all education system, obsessed with results and emphasizes the quantity of pupils' learning from a teacher holds knowledge authoritatively (p. 9). Nevertheless, some scholars now criticize the use of project-based learning. Comparing the duration, the nature of problems and tasks, the definition of problems, the structural didactic elements of the work involved the degree of theorization, the role of the teacher, the outcome and assessment, Brassler (2017) concludes that problem-based learning is found to achieve better results than project-based learning (p. 11). Thus, future research should be aimed at working out a strategy for conducting problem-based, but not project-based activities for cultural studies.

Despite the above-mentioned drawbacks of the approach taken, it had a positive impact in terms of increased motivation, professional knowledge, mnemonic abilities and translation skills.

In general, projects designed to enhance cultural awareness may boost cognitive processes in language acquisition and students' professional development, as well as eliminate misunderstandings in verbal performance and help raise people who know who their "kith and kin" are.

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