

COMUNICACIÓN JURÍDICA EN LENGUA INGLESA

Curso 2009 / 2010

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<i>Class Times</i>	<i>October – December</i>	<i>Tutorial</i>
Monday	09:30 – 11:00	11:00 – 13:00
Tuesday	09:30 – 10:15	12:00 – 13:00
	<i>January – May</i>	<i>Tutorial</i>
Monday	09:30 – 11:00	11:00 – 13:00
Tuesday	09:30 – 10:15	12:00 – 14:00

The Purpose of *English for Law*

The law course at Toledo is designed to provide an intellectual discipline in a subject of wide human interest. It affords an opportunity to see English law in its historical and social context and to examine its general principles and techniques. The problems studied involve questions of analysis and interpretation, logical reasoning, ethical judgement, political liberty and social control. Although the greater part of the course is concerned, with English law. The purpose of this course is to teach Spanish native speakers to understand and use the language of the law in English. In particular it aims to teach law students how to choose, read and use original legal materials of any kind in English in the course of their studies, research or work. Through a wide variety of exercises based on authentic legal texts, readers will gradually learn the reading, vocabulary and study skills necessary to work independently on legal materials of their own choice. The course presents about 500 general and specialised law terms for building up systematically a wide legal vocabulary in fields of special interest to the learner. Students are encouraged to practise the language presented in the course in a variety of speaking and writing activities. The themes provide an introduction to some important aspects of the English legal system and the materials present the language of different areas of the law in their natural context.

Target Group

English for Law is intended for students who have a special interest in law and need to use English of the law for their studies or work. In particular it is for law students at the *University of Castilla-La Mancha*. The course is for intermediate students of English who have already studied general English for two or three years and know some Basic English vocabulary and structures. The course starts with an introduction to some basic vocabulary and skills and introduces the students to the style and method of the course.

What can you expect to learn?

- Activate and make more fluent the knowledge that you already have.
- Develop your communication skills, both oral and written.
- Expand you knowledge of vocabulary, legal and general.

- Develop an understanding of the connections between English and European Union law.

What does English for Law students concentrate on?

The course focuses on a variety of legal topics. Using authentic texts to present and practise legal language, the course develops the four key skills of reading, writing, listening and speaking.

- Communication skills, e.g. negotiating, eliciting facts, presenting data.
- Reading skills: understanding the language and analysing the structure of legal sources (e.g. Statutes, Case law, European law).
- Writing skills: drafting legal documents (e.g. Contracts, letters).
- Systematic development of legal and general English vocabulary.

Course Contents

TEMA 1. THE STUDY AND CLASSIFICATION OF LAW

- I. What do you understand by "Law"?
 1. Moral rules, Moral and Legal Rules, Legal Rules.
 2. The law.
- II. Understanding the Branches of English Law.
 1. The Law Tripos.
 2. True cognates (Roman Law, Criminal Law, etc.)
 3. False friends (Jurisprudence, Evidence, Equity, etc.)
 4. Characteristics of English law.

TEMA 2. LAW AND "LAWS"

- I. Law and *laws*.
 1. Statute.
 2. Acts of Parliament.
 3. Common Law.
 4. Equity.

TEMA 3. SOURCES OF ENGLISH LAW (I)

- I. *Written Law*.
 1. Formally *enacted* law.
 2. Legislative enactment.
- II. *Unwritten Law*.
 1. *Unenacted* law.
 2. Judicial precedents.

TEMA 4. SOURCES OF ENGLISH LAW (II)

- I. Principal and subsidiary sources of English law.
 1. Legislation.
 2. Judicial Precedent.
 3. Custom.
 4. Books of Authority
- II. Parliament as legislator.
 1. Legislation is enacted law.
 2. Parliamentary sovereignty.
 3. Act.
- III. Decisions of courts.

1. Precedents.
2. Principles “open ended”.
3. Doctrine of the *binding* case.

TEMA 5. COMMON LAW

- I. Definitions.
 1. Binding case.
 2. Inductive legal decision.
 3. Reading for general understanding.
 4. Language study and law.
- II. Positive Law.
 1. Principles and rules of actions.
 2. Government and security of person and property.
 3. Positive law.
 4. Juristic theory.
 5. Ancient custom.
- III. Area of English law.
 1. Law of property.
 2. Personal injuries.
 3. Breach of contracts.
- IV. Remedies.

TEMA 6. EQUITY

- I. History.
 1. Body of law originally formulated and developed by the Lord Chancellor and the Court of Chancery.
 2. Equity v. Common law.
 3. The equity law principles and the predominant “fairness” characteristic.
 4. “Equity will not suffer a wrong to be without a remedy”.
 5. “He who comes to equity must come with clean hands”.
- II. Area of English law.
 1. Law of property.
 2. Law of trusts.
 3. Mortgages.
- III. Corpus.
 1. Ownership.
 2. Wills.
 3. Intestates.
 4. Trusts.
- IV. Equitable remedies.
 1. Injunction.
 2. “Equity acts *in personam*”.
 3. “Equity suffers not a wrong without a remedy”.
 4. “Equity looks to the intent rather than to the form”.
 5. “Equity suffers not a wrong without a remedy”.
 6. “Delay defeats equity”.
 7. “He who comes into equity must come with clean hands”.

TEMA 7. STATE AND GOVERNMENT

- I. The State – composition and Formation of the UK.

- II. United Kingdom.
- III. Legislation.
 - 1. The Acts of Union.
- IV. The UK System of Government.
 - 1. State Organs.
 - 2. The monarchy.
 - 3. Legislature.
 - 4. Executive.

TEMA 8. THE CONSTITUTION

- I. Parliamentary Sovereignty.
 - 1. Magna Charta (1215).
 - 2. Bill of Rights (1689).
 - 3. Parliamentary Act (1911).
 - 4. Parliamentary Act (1949).
 - 5. Peerage Act (1963).
- II. “Elective Dictatorship”.
 - 1. Dicey’s *Law of the Constitution* (1885).
 - 2. Lord Hailsham’s *Elective Dictatorship* (1976).
- III. Representative government.
 - 1. Dicey’s view of the British Constitution in 1885.
 - 2. Lord Hailsham’s view of the British constitution in 1976.
- III. The UK Electoral System.
 - 1. Representation of the People Act 1983.
 - 2. Representation of the People Act 1985.
 - 3. 650 Constituencies.
- IV. The House of Commons.
 - 1. The Members of Parliament.

TEMA 9. STATUTORY LAW

- I. Parliamentary Sovereignty.
 - 1. Acts of Parliament.
 - 2. Statutory laws.
- II. The rule of the law.
 - 1. Pass.
 - 2. Amend.
 - 3. Repeal.
 - 4. Overrule.
- III. The acts.
 - 1. Draft.
 - 2. Bill.
 - 3. Passed.
 - 4. Enacted or promulgated.
 - 5. Come into force.
 - 6. Acts.
- IV. Classification of the Acts.
 - 1. Public general acts.
 - 2. Local acts.
 - 3. Personal acts.
- V. The structure of the acts.

1. The short title.
2. The long title.
3. The preamble.
4. Enacting words.
5. Parts, articles, sections.
6. Definitions.

TEMA 10. DELEGATED LEGISLATION

- I. Delegated legislation.
 1. Byelaws.
 2. Rules.
 3. Orders.
 4. Directions.
 5. Regulations
- II. *Ultra vires* doctrine.

TEMA 11. STATUTORY INTERPRETATION

- III. The literal rule.
 1. Interpreting the words of a statute.
- II. The golden rule.
 1. *Grey v. Pearson* (1857).
- III. The enactment.
 1. The whole enactment.
 2. The history of the enactment.

TEMA 12. BINDING PRECEDENT

- I. *Ratio decidendi*.
 1. General reasons given for the decision.
 2. General grounds.
- II. *Obiter dicta*.
 1. Comments and illustrations or thoughts.
- III. Case law.
 1. Legal rule (authority).

TEMA 13. READING A CASE

- I. *McCarthy's Ltd v Smith* (Case 129/79).
 1. EC Law.
 2. Statutory interpretation in the UK and most European legal systems.

TEMA 14. JUDICIAL ORGANISATION

- I. The Judiciary.
- II. The Courts of law.
- III. Civil Courts.
- IV. Criminal Courts.

TEMA 15. CIVIL COURTS

- I. The House of Lords.
- II. Judicial Committee of the Privy Council.
- III. Court of Appeal (Civil Division).
- IV. The High Court of Justice.

1. The Queen's Bench Division.
 2. The Chancery Division.
 3. The Family Division.
- V. County Courts.

TEMA 16. CRIMINAL COURTS

- I. The House of Lords.
- II. Court of Appeal (Criminal Division).
- III. The High Court of Justice.
 1. Divisional Court of the Queen's Bench Division.
 2. The Crown Court.
 3. Magistrates' Court.

TEMA 17. OTHER COURTS

- I. Courts-Martial. Appeal Court.
- II. Restrictive Practices Court.
- III. Employment Appeal Tribunal.
- IV. Coroners' Courts.
- V. Statutory Tribunals.
- VI. Court of Justice of the European Communities.
- VII. Administrative tribunals.
- VIII. Others.

TEMA 18. JUDGES AND MAGISTRATES

- I. Judges.
- II. Magistrates.
- III. Barristers and solicitors.
- IV. Registrars.

TEMA 19. INTERPRETATION and "CONSTRUCTION"

- I. Interpretation.
- II. Construction.

TEMA 20. THE CROWN PROSECUTION SERVICE

- I. The Crown Prosecution Service.
- II. Prosecution of Offences Act (1985).
- III. Administrative actions.

TEMA 21. THE LAW OF CONTRACT

- I. Essentials of a valid contract.
 1. Offer and Acceptance.
 2. Intention.
 3. Capacity.
 4. Consent.
 5. Consideration.
 6. Legality.
 7. Possibility.
- II. Void contracts.
- III. Voidable contracts.
- IV. Unenforceable contracts.

TEMA 22. CLASSIFICATION OF CONTRACTS

- I. Contract of record.
- II. Specialty contracts (or contracts by deed).
- III. Simple contracts.

TEMA 23. OFFER AND ACCEPTANCE

- I. Offer and acceptance.
 - 1. How made.
 - 2. To whom made.
 - 3. The offer must be communicated to the offeree.
 - 4. An offer must be distinguished from an invitation to treat.
 - 5. A statement of price is not necessarily an offer.
 - 6. Termination of an offer.
 - 7. Revocation of offer.
 - 8. Rejection of offer.
- III. Acceptance.
 - 1. Mental acceptance.
 - 2. Particular method of acceptance.
 - 3. Options.
 - 4. Rules regarding acceptance.
- III. Tender.
- IV. Intention to create legal relations.
- V. Consideration.
 - 1. Be genuine or real.
 - 2. Be adequate.
 - 3. Be legal.
 - 4. Must move from the promisee.
 - 5. Be possible.
 - 6. Not be past.
- VI. Form.
- VII. The doctrine of Part Performance.
- VIII. Contractual capacity.

TEMA 24. LAW OF TORT

- I. Introduction.
 - 1. Trespass to the person and the rule in *Wilkinson v. Downtown*.
 - 2. Trespass to land and to chattels.
- II. Negligence.
 - 1. Liability of occupiers, employers and producers of defective products.
 - 2. Liability for breach of statutory duty.
 - 3. Causation and remoteness of damage.
 - 3. Remedies, especially damages, including the effect of benefits under concurrent systems of alleviation.
 - 4. Death in relation to tort.
 - 5. Defences (consent; illegality; disclaimers; contributory negligence) including justifications for trespasses and defamation, but NOT including the details of the law of limitation or time-bar.
 - 6. Vicarious liability and "non-delegable duties".
 - 7. Joint and several liability, and contribution between tortfeasors.

- 8. Nuisance and liability under the rule in *Rylands v. Fletcher*.
- 9. Liability for animals.
- II. Defamation, malicious falsehood and deceit.
- III. Aims and adequacy of the law of tort.

TEMA 25. EMPLOYMENT AND LABOUR LAW

- I. Labour law.
- II. Common Law.
 - 1. Misconduct.
 - 2. Neglect.
 - 3. Drunkenness.
 - 4. Disobedience.
- III. Statute Law.
 - 1. The Industrial Relations Act (1971).
 - 2. Employment Protection Act (1978).
 - 3. The Employment Act (1989).
 - 4. Protección de la apariencia en la adquisición de bienes muebles.

TEMA 26. CASE STUDY

- I. *McCarthy's Ltd v. Smith* (Case 129/79).
 - 1. Equality of treatment of men and women.
 - 2. Comparison of woman's Work with duties of former male employee.
 - 3. Substantial interval between respective employments's.
 - 4. Contemporaneous employment.
- II. Acts.
 - 1. Equal Pay Act (1970).
 - 2. Sex Discrimination Act (1975).
 - 1. EEC Treaty.

TEMA 26. CIVIL PROCEDURE

- I. Civil procedure.
- II. County Court procedure.
 - 1. Ordinary action.
 - 2. Default action.
 - 3. The enforcement of County Court Judgments.
- III. Civil proceedings in the Queen's Bench Division.
- IV. Enforcement of Judgments in the High Court.
- V. Proceedings in Magistrates' Courts.
 - 1. Process by summons.
 - 2. Process by warrant.
- I. Proceedings in the Crown Court.
 - 1. Indictment.
 - 2. Arraignment.
 - 3. Proceedings against children and young persons.
 - 4. Arrest and *habeas corpus*.

TEMA 27. THE TRIAL

- I. The trial.
 - 1. Plaintiff.
 - 2. Defence.

- II. Opening speech.
- III. Evidence.
- IV. Closing speeches.
- V. Judgments.
 - 1. Give judgment for or against.
 - 2. Summary judgment.
 - 3. Judgment by default.
- VI. Enforcement of the judgment.
 - 1. Writ of *fiery facias*.
 - 2. Charging order
 - 3. Garnishee order.
- VII. Review proceedings.
- VIII. Discontinuance and abandonment of the action.

Course Assessment

- 1. Regular attendance.
- 2. Continuous evaluation of course works.
- 3. Presentation of case studies.
- 4. Exams.

Bibliography

1. Introductory

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- Barker, David & Colin Padfield, 2000: *Law*. Made Simple Books, Oxford.
- Geldart, William, 1995: *Introduction to English Law*. Oxford University Press, Oxford.
- Kenny, Phillip H., 1998: *Studying Law*. Butterworths, London, Edinburgh & Dublin.
- Wydick, Richard C., 1998: *Plain English for Lawyers*. Carolina Academic Press, Durham.

2. Textbooks

- Emerson, Robert W., 1994: *Business Law*. Barron's, New York.
- McKendrick, Ewan, 2005: *Contract Law. Text, Cases, and Materials*. Oxford University Press, Oxford.
- Treitel, Guenter, 1999: *The Law of Contract*. Sweet & Maxwell, London.

3. Dictionaries

- Collins Gem, 1999: *Spanish Dictionary. Spanish-English / English-Spanish*. HarperCollins, Barcelona.
- Collin, P. H., 1998: *Dictionary of Law*. Peter Collin Pub., Middlesex.
- Procter, Paul (Ed.), 1995: *Cambridge International Dictionary of English*. Cambridge Univ. Press, Cambridge.
- Ramírez, Antonio, 2004: *Diccionario Jurídico. Español / Inglés – Inglés / Español*. Deusto, Barcelona.
- Summers, Della (Ed.), 1992: *Dictionary of English Language and Culture*. Longman, Essex.

4. Homepages and links

<http://www.europa.eu.int> (general EU homepage)

<http://www.curia.eu.int> (Court of Justice homepage)

<http://www.law.cam.ac.uk> (University of Cambridge)

5. Table of cases

Carlill v. Carbolic Smoke Ball Co. [1892] 2 Q.B. 484; 61 L.J.Q.B. 696; affirmed (1893) 1 Q.B. 256; 62 L.J.Q.B. 257

Grey v. Pearson (1857) 6 H.L. Cas. 61 at 106

Macarthys Ltd v. Smith (Case 129/79)

People v. Rehman, 253 C.A. 2d 119, 61 Cal. Rptr. 65, 85

Taylor v. Laird (1856) 1 H. & N. 266; 25 L.J.Ex. 239

Valentini v. Canali (1889) 24 Q.B.D. 166; 59 L.J.Q.B. 74; 61 L.T. 731; G.T.L.R. 75; 38 W.R. 331

Roscorla v. Thomas (1842) 3 Q.B. 234; 2 Gal. & Dav. 508; 11 L.J.Q.B. 214

Parker v. Clark (1960) 1 All E.R. 93; [1960] 1 W.L.R. 286

6. Table of statutes

Appellate Jurisdiction Act, 1876

Bishop v. U.S., D.C.Tex., 334 F. Supp. 415,418

California Civil Code, Section 22.2

Equal Pay Act 1970

Jurisdiction Act, 1876

Parliamentary Constituencies Act 1986

Partnership Act 1890

Representation of the People Act 1983

Sale of Goods Act 1893 [1979]

Sex Discrimination Act 1975