A Comparative Cultural Analysis of Terminology: A Project for Law Students

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Abstract

Culture is implicit in language studies. Cultural competence can be enhanced not merely by providing students with information, but also by investigating the nature of words and speech patterns, and research into etymology and comparisons with the mother tongue. ESP studies tend to become more international due to unification of professional terminology. The hypothesis is that a closer exploration of subject-specific modes of speech gives way to a boost in cultural awareness, helps memory, stimulates translation skills, general motivation and students' professional development. The paper presents an overview of methodological approaches to cultural studies in ESP and describes a project into cultural awareness for Bachelor-students of Law at the Financial University under the Government of the RF. The language output of the project, i.e. peculiarities of legal English, identified by students during the project, and the didactic impact which the project has had on students' cultural awareness are described and interpreted.

Keywords: cultural competence, language for specific purposes, project-based learning, terminology, etymology, semantic analysis

1   Introduction

According to White (1959), to some, culture is learned behaviour, to others, it is not behaviour at all, but an abstraction from behaviour (p. 227). He stated that any things, acts and 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 organisms, we may call them culture (White, 1959, p. 231). Language and culture have one common feature – 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 that can mean a descriptive study or it can seek to solve linguistic problems of social behaviour (p. 5).

Cultural component introduced by language teachers is thought by Frank (2013) to be 'surface culture' being presented by ideas about food, national costumes, traditional music and dance, literature, specific holidays and 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).

2   Literature Review

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

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

Holme (2003) believes that culture can be introduced into the language curriculum according to 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, pp. 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 which are brought to school by students, curriculum (contents of a language course) and testing being itself a social event (pp. 31–35).

Scholars of ESP research 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 of which it is a part (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 culture-independent semantic metalanguage (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 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, eliminates undesirable connotations, serves as a tool for compression of language material and a way for the lexical development.

When speaking about interlingua borrowings, Valeontis and Mantzari (2006) distinguish between '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).

The quantitative analysis shows that cases of imported English terms (transliterations and calks) in the Russian language 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 are to be taught cultural awareness, an extra curriculum project on intercultural comparisons for Bachelor students of Law was introduced.

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

Ho (2009) suggests that instructions in developing the cultural component may include points like exploring self, noticing/observation, cultural exploration, comparisons and reflections, 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 social (to help others to understand the ideas and concepts), cognitive (classifying, comparing, matching, selecting, predicting, guessing, sequencing) and situational aspects of teaching techniques. The teacher's main concern therefore is to keep students aware of social and cultural peculiarities of the professional language, let them interpret the text and denounce their own message 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 the following:

- 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 or some linguistic and cultural guides, use predicting, guessing, comparing techniques or just 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 study, projects etc.).

In explicit types of instruction, particular attention should be paid to translations and 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 can speak about language interference. Secondly, translation is a teaching tool that may help not only comprehend the message but also to provide more practice for language acquisition process. Thirdly, comparing the mother tongue with foreign languages students expand their cultural and professional awareness.

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

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

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

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

Another point for consideration is organizing classroom activities is commentary – oral discussions and written tasks. Discussing information students get from dictionaries can be subsequently supplemented by 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 definition of a lexical meaning of a word and additional information about realia, which are a part of a commentary (p. 81).

3   Methodology

We carried out the project, in order to find out whether 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, Jeremy Day), additional reading from mass media sources (e.g. The Economist), legal documents (directives, agreements, letters, pleadings) and scientific literature from open sources of information selected according to the theme studied by students within the syllabus of their main course. Students read and selected terms and terminological units as their home assignments. They conducted a comparative analysis of semantics, etymology, degree of metaphorisation, contextual use, peculiarities of translation, concept making and socially significant interpretation of about 1000 English and Russian legal terms. The findings were organized as a Google Table resource open to all the participants for corrections and discussion inputs. Students also gathered once a week throughout a term to present their investigations as presentations with consequent discussions. 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 analysing the input and inducing the meanings and functions of terms, i.e. the use of Latin words and archaisms, etymological insights, language parallels between the English and Russian languages, and comparisons of speech formulae in the source and target language.

To evaluate the didactic value of the project, we collected feedback from the participants. 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 w o r d s better?)
- professional development (Has the project helped you develop professionally – to a c q u i r e new knowledge in your subject-specific area?)
- skills in translation (Are you now more or less able to translate professional texts?)
- mental perceptions and intercultural tolerance (Did the information you got during the project change your attitude to the other nation's ways 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, participant of the project, were to answer the questions and score each answer according to the scale from 0 to 6 (where 0 is "no", 1 "I doubt", 2 "probably", 3 "sooner yes than no", 4 "yes, a bit", 5 "yes, sure" and 6 "yes, enormously").

4   Results

4.1   The Content Aspect

The English legal system was generally developed from Latin–Old French–Old English–Modern English. Therefore, there are three groups of words typical for Legal English such as actually Latin words, loans commonly used in modern language and some archaic words of a 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.

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

The so-called 'doublets' can also be considered as 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 the meanings *evidence* or *a part of the Bible*. Therefore, we can perceive this document as a God-blessed document, something that cannot be disputed. The Russian *завещание* does not make such mental implications.

The French language influence can be traced not only on the lexical level but also in grammar forms. For example, noun + adjective structures clearly demonstrate it: *condition precedent*, *letters testamentary*, *malice aforethought*. Structures like that are not typical for the Russian legal discourse.

Archaism is the use of a form of speech such as a word, phrase or usage that has fallen out of the general use, but is still used in the professional register. One of the brightest 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 assist deductive reasoning applied by lawyers since ancient times. They can be used for cognitive and logic operations like focusing, linking, connecting, structuring, sequencing. The language of law also uses formal and ceremonial phrases, e.g., *be it enacted by the Queen's most Excellent Majesty*.

Bookish words are frequently thought of as 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 denote legal concepts. To understand them properly we need to compare the confronted 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 a lexical internal 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 some negative connotations in the Russian language – being initially a neutral Latin word, which comes from *fiscus* – with 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 expand students' professional knowledge and work out competences necessary for work in 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 adequacy).

Intercultural discrepancies can affect denotation processes in the following fields:

- legal professions and education;
- legal institutions and structural units;
- legal procedures.

For example, such British terms as *lawyer*, *counsel*, *advocate*, *attorney*, *solicitor*, and *barrister* do not have full equivalents in the Russian language. Therefore, they have to be explained through the functions these professionals perform and then compared to the Russian terms. The term *Queen's Counsel* means 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*, *magistrate* have only one Russian equivalent *судья*, but in English, they mean 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 by nature but not necessarily connected with military cases), whereas in Russian the word *трибунал* refers to the military language and has negative connotations. In England, the court hierarchy comprises the European Court of Justice as the ultimate appellate court, House of Lords, the Court of Appeal (with its two jurisdictions – criminal and civil), the High Court of Justice and the Crown Court, the County Courts and the Magistrates Courts, the last four courts being opposite in jurisdiction (civil vs 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 type 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 means the law of justice employed as an additional legal system when Common Law fails to exercise its duty fairly (it has been in use since the 14th century and in the past was practiced in different from Common Law courts). Both terms are impossible to translate into Russian apart from in 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 a monetary or other type of reward rather than reflection or discussion.

Students also have to know some commonly used abbreviations such as *All ER* or *WLR* that mean 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 proper names can reflect cultural peculiarities of the language. In courts, for example, proper names are used without Mr. or Mrs. before them: *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).

4.2   The Didactic Aspect

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

As you can see, the two didactic points most influenced by the project were professional development (in subsequent interviews students noted that now they know more in their subject-specific area), memorization processes (it is really easier to remember the 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 to state that the participants' motivation was the result of their own educational preferences. Translation techniques, being a part of the project instruction, were duly developed and highly assessed by the participants. As for intercultural tolerance, it is an inherent component of Russian mentality. Being a multinational state, there are no prejudices towards other
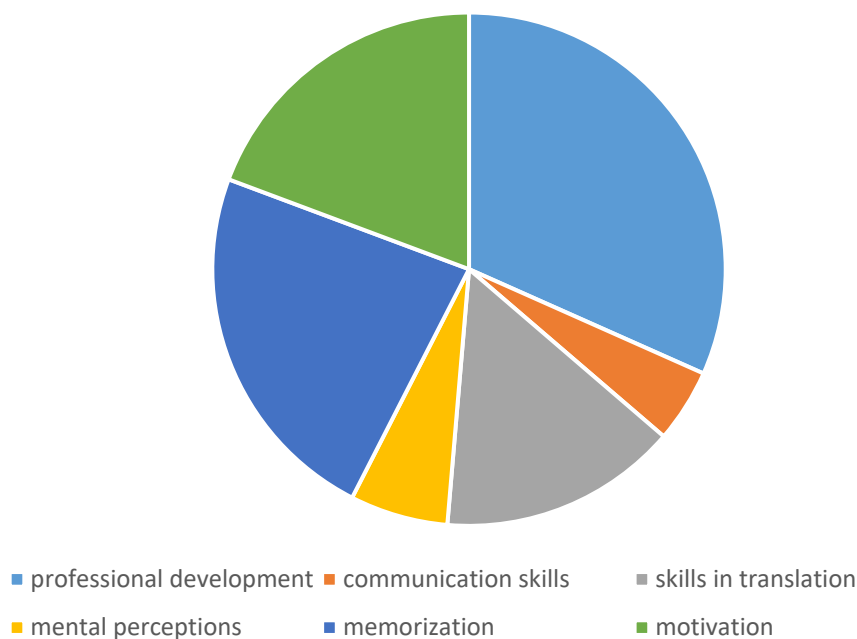
Figure 1: *The Positive Impact of the Project*

cultures in Russia. The disappointing point is the lack of communication activities.

5   Discussion

The rationale for the project was based on such theoretical didactics as intercultural competence, types of classroom instructions, content-based and project-based approaches in 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 meaningful properties 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 communicative aspect of the project was the 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 mass education system, frontally organized, obsessed with results, with quantity of pupils' acquisition where a teacher holds authoritatively the knowledge (p. 9). Nevertheless, now some scholars have criticisms concerning the use of project-based learning methods. Comparing the duration, the nature of problems and tasks, the definition of problems, the structural didactic elements of the process of work, 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 scheme for conducting problem-based, but not project-based activities for cultural studies.

Despite the above-mentioned drawbacks of the taken approach, there was much positive impact of the project expressed in the increase in motivation, professional knowledge, mnemonic abilities and translation skills.

In general, cultural bias has positive impact on intercultural communication. 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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