
Legal English for Bachelors

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Eerste druk



Noordhoff Uitgevers

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Preface

The ever-progressing internationalisation of the legal profession means that English is becoming increasingly important as a medium of communication for lawyers. Law students are expected to read textbooks in English or write their final papers in English. Attorneys-at-law and paralegals are expected to advise their clients or write letters in English. Discussing legal matters in one's own language is difficult enough, but in a foreign language it may seem virtually impossible. Most Dutch law schools try to prepare their students for a future in international legal practice by offering optional courses in Legal English, while some have even made Legal English compulsory for all their students. Our book has been written as a practical textbook for such courses.

Legal English for Bachelors takes a somewhat unusual approach to the subject. Many textbooks take as their starting point that learning Legal English means that students are introduced to the English or American legal system and its terminology. Although it is true that English is the 'native language' of many legal systems around the world, we do not feel that there is much point in teaching our students the legal language of Britain and its former colonies. When they graduate, they will almost all find employment as experts in Dutch law. *Legal English for Bachelors* covers the major areas of Dutch law and focuses on the linguistic and sociolinguistic competences needed to communicate about these areas. Attention is given to the four skills: reading, listening, speaking and writing.

The first six chapters have been written with students in mind who have to brush up their English for instance because they did not take English as an examination subject. We have tried to stimulate interest in Legal English by choosing fairly general, philosophical topics that we hope will generate a need to have a discussion in English. Furthermore, we present language functions most useful to legal practitioners, such as comparing and contrasting, agreeing and disagreeing, and giving advice. Chapter 3 is special in that it is devoted entirely to writing, in particular to text types that students will one day have to produce themselves, such as letters and memos. We have tried to limit the amount of explicit grammar instruction to the minimum, because we believe that lexical input is more important to students learning English for Specific Purposes.

The second half of the book deals with the most important areas of law that legal bachelors will encounter in their careers. Each unit in the book offers lexical input on a particular area of law. Students are encouraged to explore and discover Dutch legal terminology in a number of short exercises. The newly acquired lexical knowledge can now be consolidated and put to practice in the skills assignments. The exercises are as realistic as possible – for instance, students write short letters or memos on a legal problem or give

advice to an imaginary client in short role plays. Communication is paramount. *Legal English for Bachelors* comes with a CD-ROM with listening and functions materials. There are answer keys to the assignments at the back of the book.

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We hope that the colleagues and students who adopt *Legal English for Bachelors* will find it useful as well as interesting and fun to work with. Naturally, we welcome any questions and comments.

Tony Foster
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Mischa van Perzië

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1

Law and morality

- 1.1 Warming-up**
- 1.2 Speaking 1: greetings and introductions**
- 1.3 Listening: getting the gist of what is said**
- 1.4 Reading**
- 1.5 Speaking 2: comparing and contrasting**

The law is a set of rules by which a society is regulated, whereas morality gives unwritten rules for how people in a society ought to behave. The citizens of a country have to obey the law of that country. If they do not, they may be punished – if they have committed a crime – or they may be taken to court by another citizen in a civil action. But there are quite a few areas in which people feel that the law is far removed from what is moral. For instance, some people feel that it should be illegal to insult someone by calling them certain names, just as there are people who feel that it is outdated for insulting a police officer on duty to be punishable by law.

Chapter 1 will deal with the various elements of basic legal English skills using the above context. Section 1.1 provides a warming-up exercise to help ease the reader in to the basic use of English, focusing mainly on social interaction. Section 1.2 provides the tools necessary for listening to an English spoken text and determining the main topic. Section 1.3 introduces listening and getting the main point of a conversation. Section 1.4 deals with reading English and explaining a text, while also providing a basis for a discussion in English. The final section, section 1.5, provides a set of tools for a discussion in English. The main purpose of the language functions given in this section is to teach the language of comparing and contrasting.

1.1 Warming-up

Assignment 1.1

Work in pairs. Interview your partner and find out their name, their major, what they would like to be when they graduate and what their hobbies are. When you have finished finding out these things, introduce yourself and then introduce your partner to the group.

1.2 Speaking 1: greetings and introductions

There is a saying: 'you never get a second chance to make a first impression.' For this reason, it is important to make a good first impression. One way to do so is to know how to politely introduce yourself or others, both in formal and informal situations. Knowing how to make conversation once the introductions are over is also important, as is saying goodbye properly. Here are some tools to help with introductions and small talk. As you read this section, listen to Functions 1 on your CD-ROM: it is useful to get an idea of *how* speakers of English pronounce these phrases. Intonation is particularly important.

1.2.1 Formal situations: greetings and introductions

When greeting someone in a formal situation you could say a number of things:

- Hello, may I introduce myself? My name is Charlotte.
- Good morning/afternoon/evening. Please allow me to introduce myself. My name is Gordon.

When introducing someone else, you could say:

- I'd like to introduce you to David Smith.

In response to someone introducing himself or herself or when you have been introduced, you might use one of these phrases in response:

- How do you do? (This is not a question, but rather a formal way of saying 'hello.' The phrase is often accompanied by a handshake.)
- Nice/Pleased/Delighted to meet you.

1.2.2 Informal situations: greetings and introductions

In informal situations, common greetings are:

- Hello.
- Hi.
- Morning/Afternoon/Evening

When introducing someone else, you could say:

- Have you met David Smith?
- I'd like you to meet a friend of mine. This is Patrick Jones.

In response to someone introducing themselves or when someone has been introduced to you, you could say:

- Good/Happy to meet you.
- How are you?

1.2.3 Formal situations: welcoming someone and making conversation

The expressions in the table below can be used to welcome a person such as a client or a colleague. They could be combined with some polite conversation.

<i>Welcome</i>	<i>Small talk</i>
Please come in.	I hope you've had a pleasant journey.
Won't you come in?	Was it easy to find this building/my office?
Let me take your coat./Shall I take your coat?	How have you been? (Only when you already know the person in question.)
Please take a seat.	Lovely/Awful weather, isn't it?
Won't you sit down?	
Would you like some coffee/tea?	

1.2.4 Informal situations: welcoming someone and making conversation

In informal situations, the following expressions work well:

<i>Welcome</i>	<i>Small talk</i>
Come on in.	I hope the journey up was okay.
Have a seat.	Could you find it alright?
Something to drink?	The weather's been great/terrible, hasn't it?
Coffee/tea?	How are things? (Only when you already know the person in question.)

1.2.5 Formal situations: saying goodbye

When saying goodbye, these phrases work well in formal situations:

- It was nice/good/lovely to meet you.
- It was nice/good/lovely meeting you.
- Goodbye.
- I hope to see you again soon.

1.2.6 Informal situations: saying goodbye

In informal situations, these expressions are useful:

- Nice meeting you.
 - Bye!
 - See you (later)!
 - Cheers! (This expression means both 'thanks' and 'goodbye' and is *very* informal.)
-

Assignment 1.2

Imagine that you have just attended an international seminar on Legal English with students from all over the world. Now you are having drinks with the other participants and you don't know many people there. Walk around the room and try to meet as many people as possible. Your introductions should be *formal*. Then, introduce your newly found acquaintance to another seminar participant.

1.3 Listening: getting the gist of what is said

Listening to a conversation in a foreign language may be quite difficult, especially if you are not familiar with some of the terminology. Alternatively, you may be familiar with it but have never heard the words pronounced. This can make it difficult to understand what a person is saying. The first thing that you need to learn is to make out the main points in a conversation.

Assignment 1.3

- ⊙ Listen to Listening Assignment 1 on your CD and only pay attention to the general direction of the conversation. Do not listen for detail. Then discuss with your neighbour what the discussion was generally about.
-

1.4 Reading

Assignment 1.4

Reading an English text often presents the same problems as listening to a conversation in English. Often it is not important to understand every individual word, but rather to grasp the main points of the text.

The text below is about censorship, morality and law. The questions accompanying the text will guide you through understanding the main points of the text. Read the text and answer the questions.

Censorship, morality and the law

How do we know what the 'lowest common denominator' of morality is? We have to look at the law as it stands at the time, because when I say the public moral code isn't written down anywhere, we do, of course, have plenty of laws which deal with moral issues. 'Thou shalt not kill' is among the best remembered of the commandments, but it is also part of English law. In many areas of morality, we may not agree with the law as it stands at any given moment, but it is the only guide that any of us has as to how any other individual in society may respond to any given question of morality. At least we can expect that everyone will obey the law.

Since morality is such a fluid thing in contemporary society, if we want to change a law we simply begin a public debate, and perhaps form a pressure group to lobby parliament. It is important for everyone in society to join in these debates. It does not follow that if you shrug your shoulders and withdraw from the debate you are marvellously liberal and beyond reproach. It could be regarded as irresponsible. Pressure groups for change necessarily start from the position that they reflect a minority view since they are hoping to change the accepted law of the land.

If a minority pressure group becomes very radical and acquires a voice louder than it proportionately deserves it may well succeed in getting the law changed on a moral

issue. How do the silent majority feel then, when they wake up one day and find that they are required to submit to the morality of a minority which they feel uncomfortable with? Isn't this what happened with the anti-blood sport campaign in England? Fox hunting was practically illegal before a huge number of people who were directly concerned with this issue woke up and realised that they simply had to make their views known. Arguably, they left it too late. When does the silent majority know that it is time to stand up and speak? All the time, I say, but that is a personal moral assessment.

Unfortunately, the body of law does not encompass all those knotty moral problems which we are likely to encounter as we go through life. If you are not a religious person it can be difficult to decide on your own moral rules. Some are obvious, perhaps, like not stealing, but others are less obvious. Of course, we all learn morality from our parents and the immediate group that we mix with. I'm not a religious person myself because I don't believe in the existence of God, but I cannot easily dismiss Christian morality, or any other religious morality, because I cannot easily offer any replacement. There are times when we all need clear guidance, but who can we turn to if we dismiss the great religions? Do we have any purely secular philosophers who will guide us out of our darkness? Where might we look?

Perhaps one must look to people

like Lord Winston who has done so much in the UK to popularise the moral problems relating to the creation of 'designer babies.' Or perhaps some of our historians are willing to highlight lessons that we might learn from the past. In his enlightening book, *The Nazi Holocaust*, Ronnie S. Landau refers to the moral lessons of the Holocaust as summed up by the historian, Yehuda Bauer, in a three-point prohibition:

- Do not be a perpetrator.
- Do not be a victim.
- Do not be a bystander.

Actually, I don't know if Yehuda Bauer is a rabbi as well as a historian, but as pure moral guidelines I value his thoughts and leadership.

However, it is a time-consuming exercise to trawl through learned arguments on each side of every contentious issue, in order to form one's own personal view, and perhaps none of us are as thorough as we ought to be.

In the trilogy *His Dark Materials*, Philip Pullman explores the idea of founding a society without God and the Church. Philip Pullman puts forward the idea that he would like to see a 'republic of heaven' where people just do what they perceive to be the right thing in any given situation. This sounds tempting, but it seems to me to be the beginning of the debate, rather than the end. I foresee a problem when two characters might both think they are doing the right thing, and yet they take opposing paths. ■

Questions

- 1 According to the authors, how can we determine ‘the lowest common denominator’ of morality”?
- 2 What do the authors say is the best way to go about changing the law?
- 3 What do the authors consider to be one of the dangers of letting the law on a moral issue being changed by the loudest voices?
- 4 According to the authors, the law does not cover all moral issues. How should morality be determined where the law does not prescribe it?
- 5 What is the problem with everybody doing what they ‘perceive to be the right thing’?

1.5 Speaking 2: comparing and contrasting

Now that the main points of the text are clear, it is time to explore some of the topics a little further. One of the ways to do this is to have a discussion about some of the things that were said in the text. For a discussion of a text that deals with two different concepts, it is useful to compare and contrast these concepts before entering into a deeper discussion on the main issue. This way you will have established a good basis for a discussion. Here are some phrases used in English to compare and contrast:

Comparing

- Social rules operate in the same way as morality does.
- The law often has the same basis as the moral code does.
- Taking criminal law as a basis/starting point for (our) comparison, we see that ...
- The two systems are similar in that ...
- The two systems are identical.
- If we compare the rules of morality and the rules of law, we find that ...

Contrasting

- Rules of morality are not as uniform as rules of law.
- Unlike the rules of morality, the rules of law are codified.
- In contrast to what we would expect...
- The two types of rules are different in that...
- If we compare morality and law, we find that they differ in...
- The rules of morality are very different from the rules of law.
- Whereas legal rules are mostly codified, moral rules are rarely laid down.

Assignment 1.5

Read the text on censorship, morality and law again, and discuss the following points.

- 1 Discuss whether these cases of unacceptable behaviour violate legal or moral rules, or both:
 - a burping at the dinner table
 - b slapping the Queen

- c jay-walking
 - d earning undeclared wages
 - e having an affair with a married person
- 2 Compare rules of law with rules of morality. Should the law always adapt itself to current ideas of morality?
 - 3 If the law and the current morality do not agree, do you think people should be allowed to disregard the law in favour of their idea of morality? Explain your answer.
-

Vocabulary list

arguably	men zou kunnen zeggen
assessment	evaluatie, afweging
beyond reproach	onberispelijk
ensorship	censuur
a civil action	burgerlijk proces
to codify	codificeren, vastleggen in de wet
commandment	gebod
contemporary	hedendaags
contentious issue	twistpunt
contentious	betwistbaar
current	huidig
enlightening	verhelderend
gist	kern, hoofdlijnen
insulting a police officer on duty	belediging van een politieagent in functie
knotty	lastig, gecompliceerd
to lay down	optekenen, vastleggen
law	recht
to lobby	lobbyen
lowest common denominator	kleinste gemene deler
major	hoofdrichting, hoofdvak
perpetrator	dader
punishable by law	strafbaar volgens de wet
to shrug one's shoulders	de schouders ophalen
to take to court	voor de rechter dagen
to trawl	uitpluizen, zoeken
to violate	schenden