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**Editors: Robertson, P., & Jung, J.**

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**Table of Contents:**

|   |                |
|---|----------------|
| <b>1. Foreword</b>  | <b>4 - 5</b>   |
| <b>2. Jung, J., and Robertson, P. Educational Malpractice in TESOL:</b>                   | <b>6 - 15</b>  |
| <b>3. Dickey, R. Code of Ethics in TESOL</b>  | <b>16 - 23</b> |
| <b>4. Davidson, T. Regulating the Unregulated TESOL Industry</b>                          | <b>24 - 30</b> |
| <b>5. Alcott, J. Contract Issues for TESOL Teachers</b>                                   | <b>31 - 42</b> |
| <b>6. Kelly, J.P. The Law of Business English in China.*</b>                              | <b>43 - 46</b> |
| <b>7. Wolff, M. Best IP Protection is Through Education, Not More Enforcement Actions</b> | <b>47 - 49</b> |
| <b>8. McBeath, N. English for Military purposes in the Age of Information Technology</b>  | <b>50 - 60</b> |
| <b>9. Kim, R. Teaching English in Korea</b>   | <b>61 - 65</b> |
| <b>10. Patil, Z.N. Oral Presentation Skills for Prospective Business Executives</b>       | <b>66 - 85</b> |

**Foreword by Tom Davidson.**

As Editor in Chief of the TESOL Law Journal, I would like to extend a warm welcome to all of our readers and give a big thank-you to the inaugural edition's contributing writers who produced an eclectic assortment of thought-provoking articles broaching some of the most contentious legal conundrums at the heart of the SLA industry. Articles are divided into two sections: - legal research and theory based articles, and secondly, collateral law articles

The TESOL Law Journal has been established in response to increasingly vocal demands from SLA practitioners, both in non-SLA countries and SLA countries, for a professional journal in which academic articles addressing legal issues relevant to the industry are made available for discourse and contemplation.

Described by many social scientists as a boom industry not all that dissimilar from the gold rushes of North America between 1847 and 1900, the phenomenon of teaching English in a foreign country is grabbing headlines in SLA countries and abroad, not to mention occupying the thoughts of government policymakers as they struggle to deal with the challenges that this industry poses to existing legal, regulatory and financial systems that were never designed to deal such unique pressures.

Run an Internet search combining "EFL" and "scandal," and you will be presented with what seems like an almost infinite number of links to stories better suited to a True Crime novel than a young industry with limitless growth potential. Numerous legal problems are appearing in connection with this rapidly developing industry- which many argue, is retarding its development due to the absence of legal and regulatory controls.

How did a profession such as SLA manage to evolve in an environment devoid of legal and regulatory controls? The answer is difficult to track down, but for most commentators, the best place to initiate a much needed process of self-regulation is with the introduction of a teacher's code of ethics.

According to leading industry proponents, the introduction and implementation of a teacher's code of ethics will go some way towards reining in the more extreme behaviour of elements in the profession while signaling to governments in SLA countries that the sector is making serious efforts to self-regulate and clean itself up. At this stage in its development, the last thing the SLA industry needs is a hodgepodge of heavy-handed government interventions, imposing draconian regulations, creating what many commentators have already begun labeling the "EEI" (English Exploitation Industry), further isolating professional practitioners from legal recourse and remedy.

In January's edition of the TESOL Law Journal we combine legal issues, business legal issues with other topics of interest governed by theoretical and practical legal principles. Joseph Jung and Paul Robertson provide a unique examination of the evolving issue of educational malpractice in TESOL, while Robert Dickey discusses the need for and role of a code of ethics in TESOL. Tom Davidson looks for ways to regulate the unregulated TESOL industry and Dr Jane Alcott offers straightforward advice on contract issues for TESOL

TESOL LAW Journal. January 2006 Vol 1.

teachers. Dr James P. Kelly pens an analysis of China's growing business English market as Martin Wolff helps us to navigate through the minefield that is educating the Chinese on Intellectual Property protection laws. Neil McBeath studies the importance of English for military purposes in the age of information technology, while Robert N. Kim critiques teaching English in Korea. Finally, Dr. Z. N. Patil shares his knowledge on the importance of oral presentation skills in business presentations.

I trust that you will enjoy reading our inaugural edition and look forward to your feedback, contributions and continued support. –Tom Davidson



**Article Title**

Educational Malpractice in TESOL:

**Authors**

Joseph Jung & Paul Robertson

**Bios:**

Joseph Jung received his initial legal training in the U.S. He is now a professor at Dongseo University in Korea.

Paul Robertson has worked for over two decades in the EFL and legal professions.

**Abstract.**

The field of TESOL is a growing social science. Hundreds of thousands of native English speakers teach English language skills to students across the globe. The vast majority of teachers are not qualified to teach English, though the number of instructors undertaking advanced certificate or degree skills is increasing. There is no precedent for the question, "Can a student sue a TESOL teacher for educational malpractice?" but the courts in the U.S, and the commonwealth countries of Australia and the UK give some insights – though differing. The question raises relevant secondary issues that go to an Educational Course providers' duty of care to provide courses that are fit for the purpose and relevant to the student's proposed course of employment.

**Key words:** Educational malpractice. TESOL certificates. EFL/ESL teaching. TESOL school liability. The tort of educational negligence.

**Introduction & Overview**

We have been asked to consider a unique question not yet considered at law. Does the law of educational malpractice extend to TESOL teachers? TESOL is the acronym for *Teaching English to Speakers of Other Languages*. Educational malpractice is commonly defined as the failure to adequately educate a student. Malpractice has been defined as:-

Professional misconduct or unreasonable lack of skill. Failure of one rendering professional service to exercise that degree of skill and learning commonly applied under all the circumstances in the community by the average prudent reputable member of the profession with the result of injury, loss or damage to the recipient of those services or to those entitled to rely upon them. (Black, 1990).

First we look to the general law of educational malpractice and note the courts reluctance to entertain such cases. Courts traditionally have been hostile to educational malpractice claims, in part because evaluating a student's claim involves, according to a federal appellate court, the inappropriate "second-guessing [of] the professional judgment

of the university faculty on academic matters." (Euben, 2005.)

Clearly there are 2 two areas for consideration, that known as EFL, (English as a Foreign Language) where teachers of English (native English speakers) teach English in a country where English is not the native language. The second category is ESL where teachers of English teach English to students whose native tongue is not English, but the students live (or study) in an English L1 country. Clearly this raises two very different questions that entertain different legal questions and propositions. The first question to be answered is, "What, if any qualifications, does one need to teach English?" Carmichael (2002) notes,

Murcia and Goodwin (1991, 136) touch upon the quality, or at minimum, the desired quality of a 'teacher' by saying; "The teacher is ideally a native or near native speaker of the target language..." however they qualified their opinion in so far as they limit their comment to the field of pronunciation, and it does seem to exclude the possibility that a nonnative teacher can teach pronunciation ... *however it is one of the isolated references to the fact and realization that 'teachers' of ESL do not need to be qualified at the outset.* (Carmichael, 2002)

Lee (2005) takes the argument further by considering six requirements. Thus it would seem we are left with an unanswered debate as to what constitutes an English teacher as far as qualifications go. However, Carmichael (2002) provides a definition which we will use for the purpose of this paper.

"...native teachers of English will be referred to as 'qualified teachers or non qualified teachers.' The former are those defined as presenting an accepted university qualification beyond or equivalent to a teaching degree/license in their native country and having had at least one year's minimum foreign teaching experience of the English language. The latter are those employed as teachers of English to teach English to foreign students whilst not possessing any recognized or formal teaching qualification from a recognized/registered institution."

Two issues arise that are worthy of legal argument but can be left to another time. The definition of malpractice includes the phrase, "...rendering professional service..." An argument may exist that this excludes TESOL teachers (and applies in traditional domains such as medicine, law, engineering, etc.) Also defining the "...average prudent reputable member of the profession..." could be difficult.

Thus, we must consider if educational malpractice applies to teachers (in the wider sense of the word) in settings known as EFL and ESL, and amidst these two categories we must further consider the two groups of English teachers; those who have been qualified to specifically teach EFL or ESL studies, and those who are not qualified, yet teach. Although no clear research seems to exist as to what the percentages are of these categories, Ahn (1998) noted that in the Korean Government program of 1000 foreign teachers, only 3% were qualified in terms of being English teachers with specific qualifications that allowed them to teach English. Prima facie this suggests a vast profession whereby the majority are without professional qualifications and this raises numerous issues, both ethical and legal. Thus, whilst cases do not appear in ESL/EFL settings, there is no prima facie reason why a

plaintiff could not initiate legal actions in certain circumstances.

### Scenarios

There are various scenarios to explore.

- (a) the case of a qualified EFL/ESL teacher being sued in educational malpractice
- (b) the case of an unqualified teacher being sued by a language student
- (c) the case of a student in an ESL country suing his educational provider (EP.)
- (d) the case of a language student in a non English speaking country suing his EP
- (e) the case of a native English language teacher suing a TESOL course provider
  - (i) this must be further divided to on-line and attendance study
- (f) although not explored here, the issue considered by Australian courts, namely, is the field of study compulsory or voluntary, also needs investigation. Private schools (non university) that supplement government learning may find a further defence here, whilst government schools, (especially where we see such programs as EPIK in Korea, NET in Hong Kong, JET in Japan) raise further issues for consideration.

### U.S. Law

The first reported cases of educational malpractice were in Louisiana in 1973 and in California in 1976. *Peter W.* is the first reported case in the USA of what was later called "educational malpractice", although that phrase is not used in this case. The plaintiff had spent 12 years in public schools and had graduated from high school, however his reading level was allegedly only at the fifth grade level. At that time, California had a state statute requiring pupils to read above the eighth grade level in order to graduate from high school, so the school graduated him in violation of a state statute, a fact that should be evidence of the school's negligence. The court refused to recognize the claim for negligence for two reasons. First:

Unlike the activity of the highway or the marketplace, classroom methodology affords no readily acceptable standards of care, or cause, or injury. The science of pedagogy itself is fraught with different and conflicting theories of how or what a child should be taught, and any layman might – and commonly does – have his own emphatic views on the subject. The 'injury' claimed here is plaintiff's inability to read and write. Substantial professional authority attests that the achievement of literacy in the schools, or its failure, are influenced by a host of factors which affect the pupil subjectively, from outside the formal teaching process, and beyond the control of its ministers. They may be physical, neurological, emotional, cultural, and environmental; they may be present but not perceived, recognized but not identified (*Peter W. v. San Francisco Sch. Dist.*, 131 Cal.Rptr. 854 (1976).

*Donohue* (1978) is the first case in the USA to use the phrase "educational malpractice". The opinion of the New York Court of Appeals is generally considered to be the leading case on why courts do not recognize educational malpractice as a tort. The plaintiff received a graduation certificate from a state high school, although he allegedly did not have the basic skills to complete an application for employment form. The plaintiff alleged surprise at his ignorance, but a court noted that his grades in school which

included two failing grades in English, gave adequate notice to him and his parents. 407 N.Y.S. at 881, 883.

The first appellate court stated:

Finally, the plaintiff's complaint must be dismissed because of the practical impossibility of demonstrating that a breach of the alleged common law and statutory duties was the proximate cause of his failure to learn. The failure to learn does not bespeak a failure to teach. It is not alleged that the plaintiff's classmates, who were exposed to the identical classroom instruction, also failed to learn. From this it may reasonably be inferred that the plaintiff's illiteracy resulted from other causes. A school system cannot compel a particular student to study or to be interested in education. Here, the plaintiff is not totally illiterate and his academic record indicates satisfactory achievement in several subjects. In addition to innate intelligence, the extent to which a child learns is influenced by a host of social, emotional, economic and other factors which are not subject to control by a system of public education. In this context, it is virtually impossible to calculate to what extent, if any, the defendant's acts or omissions proximately caused the plaintiff's inability to read at his appropriate grade level.

*Donohue v. Copiague Union Sch. Dist.*, 407 N.Y.S.2d 874, 881 (1978).

Most U.S. courts reject general educational malpractice claims. In *Bittle v. Oklahoma City*, a state appellate court rejected a law student's claim against Oklahoma City University. The student's grade point average fell below the minimum required by the school. He sued, alleging that his dismissal was caused by the poor performance of his constitutional law professor, who arrived late to class, discharged class early, canceled class, and provided no make-up classes or academic counseling.

The court found "no specific agreement...for the provision of particular educational services beyond the provision of an adequate legal education," and so dismissed the suit. However, this gives clear guidance when we look at SLA (Second Language Acquisition or SLA theory providers) who do/may offer specific agreements for language acquisition attainment and knowledge.

In *Miller v Loyola*, University of New Orleans 2002 WL 31256424 (La. App. 4th, 30 Sept 2002) a US court yet again dismissed the idea of a student being able to claim for alleged poor instruction and any other form of supposed educational malpractice. However, in *Lowenthal v Vanderbilt University* (1976), 8 PhD students successfully sued for breach of contract over poor teaching/organization: as Collis, (1990), and Lockhart (1995) note, educational malpractice can also be dealt with as breach of contract/misrepresentation rather than necessarily via the tort route.

### **Commonwealth Jurisdictions.**

Whether the wording is *educational malpractice*, or an *action in negligence*, it is clear from Australian law that courts are beginning to accept that such a tort against educational providers exists. However, one of the components of the tort is a duty of care. The House of Lords (UK) doubted a duty care went so far as to include classroom teaching. Yet in recent obiter from the House of Lords, it was noted that a duty of care was owed by a local educational office for their students' education in some limited

Circumstances. (*X and others v Bedfordshire City Council*, 1995.)

Similarly, there is a view emanating from Australia, that with students starting to pay high educational fees, the courts will start to consider such issues as educational negligence or malpractice. Thus it is obvious that as the facts change, the courts will be able to distinguish the earlier House of Lords decision, and grant relief.

### **Applying the Law to TESOL**

It is clear that the vast majority of native English speaking TESOL teachers are not qualified to teach TESOL. This is not to imply they are not good TESOL teachers, merely they have no recognized qualification to teach. It should be noted that most EFL countries merely require a native English speaker to have a degree from a recognized university. A few countries also require a TESOL certificate, but the value of these should be doubted in most cases.

However this on its own, ipso facto, falls far short of the requirements to commence an action in educational malpractice. The students would need to provide a substantial amount of other evidence. A first blush, the student would need to overcome some of the following hurdles to even have standing (ability to sue) let alone commence proceedings.

- (i) show the teacher was not qualified
- (ii) show that that teacher student relationship was one that covered a span of time (at least 3-5 years) – time in which the student could reasonably be expected to learn a L2
- (iii) show that the teacher student relationship covered a suitable period each week (at least 3 lessons) for the period mentioned in (ii)
- (iv) show that that student had progressed in other subjects
- (v) show that his/her level of understanding of the L2 was not satisfactory given the period of time learning
- (vi) and very importantly, show that other students in the care and control of that language teacher, had also failed to advance their L2 skills

In the case of a student suing a qualified teacher, the burden of proof would be far greater, for courts are reluctant to grant such actions. Further points beyond (i-vi) above would need to exist to give an action standing. Some points could well be;

- (vii) show that the teacher had not undertaken any refresher courses for a substantial period of time
- (viii) show that that teacher had been negligent in carrying out his/her duties
- (ix) show that the passing grades written up by the teacher were wrong

A recent case in the U.S. suggests that other issues such as

- (x) the teacher being frequently tardy
- (xi) the teacher being frequently absent
- (xii) and wasted students' time by discussing personal issues

may also be relevant in compiling a claim. In other words, subjective matters going to the teacher's ability to teach could be relevant.

Given the nature of L2 learning and teaching across the globe, it seems clear that language teachers are with students for a short period of time – one to three years would be common. This period of time is arguably not long enough for any students to obtain a clear understanding of the L2 and be able to speak it fluently. (Bernat, 2005) (The debate as to what fluent means will not be explored here, but it would be difficult for any student to find expert witnesses to support his case.)

Of course, we note the possibility of language students studying in Australia, USA, Canada, etc, who are in a higher institution of learning in an ESL atmosphere – those students would have less of a threshold test to hurdle. In this edition, Robertson (2005) quoting Debito (2004) discusses issues of EFL teachers having difficulty obtaining tenure, or longevity in employment, in universities in Japan and Korea. One can now see an ancillary purpose very clearly for this purpose. This rationale by Universities would be a major point in defeating a student's claim as the requisite causal connection to a specific language teacher would be absent. However, it is clear that the law very clearly favors teachers over students. Hence it is important to look to the next section, the liability of education providers.

### **Applying the Law to Educational Providers**

Whilst suing a teacher presents formidable hurdles, taking action against the school or educational authority that hired the teacher is a more logical proposition. Schools are legal entities and have registered under various Educational laws and business practices Acts in their home country. Some schools in some jurisdictions are also covered by Trade Practice Acts as well.

It is relatively simple to see the claims that these schools make on their advertising paraphernalia. Some schools even publish their own teaching materials which make outrageous claims as to learning a second language. (Indeed it is easy to see Publishers making unsubstantiated claims on their covers pertaining to English language learning and the contents of their books.) This goes beyond the legal concept of 'puff.' But in the U.S. we can see a new direction in court thinking developing:

A Florida appeals court has ruled that a family may sue a school district ... for allegedly false representation in marketing materials that the public school in the area was "cutting-edge." (Frank, 2003)

Education providers clearly know the qualifications of those they hire and know the content of their own advertising. As of yet, and somewhat surprisingly, educational providers in most EFL zones are not required to display the qualifications of their foreign teachers such that a parent could make an informed decision as to enrolling his child at that school. An example of an educational provider deceiving the parents of the students is seen with a leading foreign language high school in South Korea which employs four native English speakers as language teachers. Not one is qualified to teach English, yet this private school, under government contract and subject to the Education Act of Korea, has a higher burden of legal responsibility to employ only those who are well qualified to teach. In this case, the parents of the school collectively could sue the school in educational malpractice where a student has failed to graduate to a higher-level university.

Another area is the student / university relationship, where the legal burden to

provide courses fit for the purpose is greater. Some countries, namely Korea and China, employ non-qualified teachers from English speaking countries to teach English. This is a cost effective exercise, but the long term may show this to be legal folly. A student would have more likelihood of success in commencing an action against such a provider, and it wouldn't be surprising to see such actions commence in the near future. Of course there are threshold requirements to satisfy, but should not be beyond the pale of achievement.

A further area of concern is the TESOL Certificate / TESOL Masters providers. Teachers can undertake studies for a Certificate, yet a cursory glance shows that most of the course providers do not meet the basic legal requirements to be called Educational providers. Only two non-university courses appear to have the legal pre-requisite to be called TESOL certificate providers. Though beyond the scope of this article, Internet Law and educational providers is an area that needs closer examination.

In the last five years, universities have begun extensive programs of education in Ma TESOL studies. Some require attendance, some via the Internet. The majority offer excellent courses. One provincial Australian university in New South Wales, Australia, challenged by the student who alleged professional negligence and educational malpractice as the university instructor failed to show more than a limited knowledge of EFL issues and complete lack of understanding of Asian EFL cultural issues, counter threatened the student with a defamation suit in order to prevent the suit from proceeding. The counter claim was without foundation, and based on bluff. Yet this shows the extent legal departments of universities will go to stop/hinder students' legitimate actions.

However, the US courts are skeptical of claims under consumer protection legislation as being merely another attempt at asserting educational malpractice (for example, *Finstead v Washburn University of Topeka* 845 P.2d 685, Kan. 1993). The student is clearly a consumer of the educational service offered by the Higher Educational Institution under a contract to educate, but, at least in the USA and despite the generally rather higher level of tuition fees charged to students in US Higher Education, the student is far from being 'an empowered consumer' in terms of being able to rely on consumer protection legislation. Given that such US consumer protection legislation generally requires evidence of fraud and intentional misrepresentation, students do not succeed against the Higher Education Institutes (for example, *Lidecker v Kendall Coll*, 550 N.E. 2d 1121, Old. App. Ct 1990 and *Villarread v Art Institute of Houston* 20 S.W.3d 792, Tex. App. 2000). However, as far as TESOL teaching goes, one may argue that a teacher teaching with no satisfactory qualifications goes someway to intentional misrepresentations.

### **Grading.**

One well-known phenomenon is private schools giving artificially inflated results to students. This situation is prevalent in Korea, especially in the University sphere, where foreign teachers are required to pass all students with varying levels of a pass grade. The case of Donohue clearly shows that schools or universities who persist in this practice of manipulating grades can leave themselves to an action whereby the student sues the University or school if the student fails to show a reasonable level of proficiency in the L2, where a pass grade has been awarded, and provided other factors support the action. This issue will be discussed further in a separate article.

### **English Testing Services TOEIC-TOEFL-TEPS-IELTS**

Although beyond the scope of this paper, but worthy of examination, is the generating legal view that course providers such as the above, who charge substantial educational fees, may be open to an action in educational malpractice (in EFL/ESL countries especially) where certain conditions are met by the plaintiff. Given the increasing amount of schools and universities running these courses, it is believed that the standard of care provided by the teacher/school running these course(s), is something that the courts could consider if the student fails to obtain a satisfactory score.

### **Defining the Standard of Care**

U.S. Courts repeatedly assert that evaluation of education is impossible in a courtroom. As the courts noted, good teaching does not guarantee good learning, since the pupil and his/her parents control many of the factors in learning. Another fear is the *floodgates principle*. Some courts say that recognizing the new tort of educational malpractice will "open the floodgates of litigation", which will burden the courts. It is submitted, in relation to TESOL educational malpractice, that this belief is merely a point for consideration, but not a dominant point, and merely one of many. Thus courts in the U.S.A., will at some future time find it possible to clearly define what the duty or standard of care is between teacher and student. Of course, in EFL legal jurisdictions, that scenario is more complex, but arguably progressive courts will consider educational malpractice and be influenced by other legal jurisdictional findings.

### **Conclusion**

Can we say that TESOL teachers will never be sued in educational malpractice? Whilst the answer is not definite, there seems a good probability that the answer will be *no* in the short term. As for the long term (a decade or more away), given the movements in legal thinking in both the U.S., jurisdiction and Commonwealth jurisdictions, it is not unreasonable to think that claims in TESOL jurisdictions for educational malpractice or negligence will not succeed.

Whilst courts are reluctant to impose an unreasonable standard or duty on a teacher, the case of TESOL may well be distinguished, for there are a certain significant percentage of teachers who are not qualified to teach. They are, as is their employer, holding themselves out as a language teacher, which said holding out arguably carries a duty of care. Laws that cover corporations and go to false and misleading advertising are well positioned to be used.

Of course, TESOL is global. Hundreds of legal jurisdictions are involved. Whilst it is difficult to see an action in educational malpractice brought in Asia with its Confucianist traditions, in the seminal article on the Confucianist influence on education in Asia, Robertson, (2003) implies a legal challenge is no longer out of the question.

“...it is also argued that the influences of Confucius and Mencius are but a part of a system that was seen as leading to the country’s 1997 economic demise, for these principles restricted the true ability of a Korean to develop him or herself for it was the application of the Confucian top down system in all walks of life that is

now undergoing substantial change. Changes since 1997 may now mean that any direct influences attributable to the aforementioned are being refashioned by socioeconomic events.”

One area of educational malpractice that does seem more likely is that of a TESOL teacher suing his TESOL Certificate / degree provider. Some of these courses, it is argued, are vague in nature, and fail, at times, to consider the legal implications of a TESOL teacher taught in one jurisdiction, who would reasonably be foreseen to go to foreign jurisdictions to teach, and thus to be prepared for such foreign teaching experience.

Although best left to a follow up article, the comprehensive findings of Bernat (2005), namely that,

*89% of respondents agreed with the statement that “It is best to learn English in an English-speaking country”, recognizing the inherent value of learning language in an immersion-type setting, where there is a greater exposure to the foreign language, its culture and its people*

suggest that language learners (non English native speakers) who in greater numbers will visit English speaking countries to learn English, will place greater legal demands on those ESL language providers.

In summary, it is difficult to envisage actions blossoming within the next decade, however, as TESOL becomes more and more an accepted social science, the likelihood of legal actions arising in TESOL educational malpractice increase.

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**-Article Title**

Assessing Ethical Standards for EFL Teaching Professionalism

**Author**

Robert J. Dickey

**Biography**

Robert Dickey is a past-president of Korea TESOL, and holds Juris Doctor (law) and Master of Public Administration degrees as well as TEFL certification. He has been teaching in Korea since 1994, but has spent almost all of his life amidst Asian cultures, and has been investigating issues of professional ethics since his early graduate studies in the mid-1980s. Holding tenure at Gyeongju University in S. Korea, he may be contacted at [rjdickey@content-english.org](mailto:rjdickey@content-english.org)

**Keywords**

ethics, code of ethics, EFL, professionalism, teaching, TEFL

**Abstract**

Appropriacy for and need of ethical guidelines for teachers in EFL settings is analyzed and the TESOL-Law Draft Code of Ethics is examined following a more general review of underlying principles in ethics. Comparison is made to those rules affecting teachers in various settings across the globe as well as other professions. Distinctions in various systems of ethics are identified. Recommendations for revisions in the TESOL-Law design include reorganization, recommended (aspirational) ideal states, and inclusion of additional topic areas.

**Introduction**

Nearly ten years ago I began calling for development of a system of ethical guidelines for EFL teachers in the Asian setting, it was therefore with great enthusiasm that I set about assessing the new TESOL-Law (2005) Draft Code of Ethics. While governmental regulations dictating standards of professional ethics for teachers in state-schools is not uncommon across the globe, as is the case for many other professions (law, medicine, and accounting to name just three), teachers outside the state schools generally have no agreed upon standards of professional ethics, and indeed there appears to be some reluctance to develop rules on ethical behavior which could be used by employers to discipline teachers (Dickey, 1998, p. 105).

Why is this an issue? One working definition of “profession” includes an identifiable associated science or art, control of entry into the field, an expectation that professionals keep current with new developments within their field, and the ability to self-regulate the practices within the field. Luegenbiehl (cited in Center for the Study of Ethics

in the Professions, n.d.) notes that adopting a code is significant step in the professionalization of a work-field “because it is one of the external hallmarks testifying to the claim that the group recognizes an obligation to society that transcends mere economic self-interest.”

In the field of teaching English as a foreign language (TEFL), none of the three major international societies (TESOL Inc, IATEFL, and AsiaTEFL) have established ethical guidelines for teachers. This may be due in part to the fact that large numbers of members in the first two organizations work in state-schools environments where governmental codes of professional behavior would take precedence. Other societies of language teachers in North America, including the American Council on the Teaching of Foreign Languages (ACTFL), the Canadian Association of Second Language Teachers (CASLT), and the Northeast Conference on the Teaching of Foreign Languages (NECTFL), have similarly apparently not implemented guidelines for ethical practice. It should be noted, however, that the National Association for the Education of Young Children (NAEYC, 2005) has implemented their own “Code of Ethical Conduct and Statement of Commitment” that is in addition to any local legal requirements, as has the National Education Association (1975) and the British Columbia Teachers’ Federation (a labor union).

This study will overview some fundamental concepts in ethics and rules of ethical behavior, with reference to existing codes of professional practice, will evaluate TESOL-Law’s new draft code of ethics, and will then offer suggestions concerning the future of professional ethics in the field of TEFL. Every attempt will be made to avoid excessive legal jargon, or to provide definitions which are accessible to those without legal training.

### **Professional Ethics**

Professional ethics can be best understood by distinguishing these from other related concepts. Morals and moral principles, the ideas of “right and wrong,” are largely developed through religious and parental teachings; whereas (social) values, a sense of “good and bad,” are formed through impressions from friends and society at large (Dickey, 1998, p. 106). The combination of these, plus formal teaching or established rules, develop ethics – “a system or code of conduct” (Silva, 1997, p. 359). Due to the complexity and diversity of individualized ethical systems, they may be reduced to a set of rules which are adopted by professional organizations, or enacted as laws or regulations by governmental authorities, or both. In most cases, however, as Strike (1988, p. 1) notes, “ethical questions cannot be settled by an appeal to facts alone.”

A “code” is a written collection of rules, organized by topic: the concept of a code of ethics is important because it implies that all the rules can be found in one place and therefore those affected by the code can be expected to be knowledgeable of the requirements. Codes prevent professionals from being judged by individualistic standards. Nevertheless, vague rules still exist: Haigh (1992, p. 8) notes that in England, teachers work under the standard “Do we want somebody like this teaching our children?”

Differences exist in how a code of professional ethics should be drafted. Nigro & Nigro argue that “a code of ethics is best defined as a statement of acceptable standards of behavior” (1984, p. 377), others suggest that the rules should be more general and aspirational: as Wood (1996, p. 14) states, “an ethics code is a tool for professionals, not a cage.” In the United States a number of national societies for professionals draft “model

codes” or “model rules” for professional conduct, which are often adopted in one form or another by state governments, often with assessment (adjudication) and enforcement referred to local (state) branch divisions of the professional societies. These codes, such as that set by the American Bar Association (1969), may establish both “Disciplinary Rules” that must be satisfied by all professional and “Ethical Considerations” that encourage higher levels of professionalism (though a later set of rules by the American Bar Association (1983, revised 2004) removed this distinction). Professional bodies may also condense their voluminous rules into short sets of more easily memorized principles (see AICPA, 2004 or American Medical Association, 2001). However, in the field of teaching there are not many examples of teacher societies policing their own. For an example of state administrative regulations over teachers in state schools, see, for example, the Code of Professional Conduct for Education Practitioners (State of Washington). In Washington (state) the ethical code is controlled by governmental offices (State Superintendent).

On the other hand, as is remarked by Cahn (1986, p. xi), “remarkably little has been written about the obligations of a professor” (though see American Association of University Professors (1988), which is rather vague and aspirational). While individual colleges may establish their own rules (formal and informal), teachers in tertiary institutions are generally exempted from the rules promulgated for those in state schools. In the case of non-tenured expatriate faculty, there are generally no rules at all.

### **TESOL-Law’s Draft Code of Ethics**

First placed online in December of 2005, the TESOL-Law (2006) revised draft code of ethics has been presented as a discussion item for a period of three months. Recognizing that as a draft on the ephemeral page known as the Internet, it may be impossible to review in the future, I will cite text extensively here. The version available January 1, 2006 includes substantial revision from that which was available a few days earlier—sections addressing Webmasters, Publishers, Recruiters, and education providers have been removed. As it is presented as a discussion draft (which accounts for the changes which may occur during the initial period) little attention will be directed at minor issues such as incidental language (or typographical/formatting considerations), instead “big picture” issues which impact how a final version might be developed are the focus here.

#### *Organization and general framework*

The TESOL-Law Draft Code of Ethics (henceforth, draft code) has been structured in a highly segmented and specific manner, very consistent with the types of codes adopted as governmental regulations. Most sections of the code are only one sentence, though with numerous clauses, often running 30-50 words or more. Such a design, while easy to cite, is rather distant from most language teachers’ preferences.

The four Chapters of the draft code (plus a definitions section) are

1. The foreign language/second language teachers responsibilities to the students in his/her care (12 sections)
2. The foreign language/second language teacher's responsibilities to his colleagues and the teaching profession (14 sections)
3. The foreign language/second language teachers responsibilities to the parents of his

- students and to the community (3 sections)
- 4. Legal obligations of the foreign language/second language teacher (3 sections)

In a structural sense, what seems to be missing is a preface: this is important because in many cases the preface is the location for aims or aspiration (MacDonald, n.d.-a). We might also look for an index/table of contents, cross-links, and expanded definitions.

Organizationally and stylistically, it may be desirable to include more general “aims” above a set of related requirements, as is done by American Speech-Language-Hearing Association (2003) and American Bar Association (1969). NAEYC (2005) does a particularly good job of integrating preliminary statements before specific guidelines on ideals and principles.

#### *Types of rules presented*

It is important both to “distinguish different kinds of rules (for example, values versus prohibitions” (von Bayer, 1997), and to “articulate as far as possible the underlying assumptions and guiding principles of a working ethic” (Toronto Resolution, 1992). In many sets of ethics there are official annotations, or embedded within the code may be examples or expressions of values (Murphy and Swenson, 2003, or see American Psychiatric Association (2001) for an example). The present draft code defines expectations in a rather vague manner, with neither specifically defined acts or prohibitions nor expressions of “best practice. Use of the term “shall” may be inappropriate in this situation, a statement of best practice which would encourage teachers to realize these aims may be more helpful.

Lack of specificity which undermines any potential enforcement can be found in numerous sections: section 1.11 and section 2.7 are presented as examples:

- 1.11 The foreign language/second language teacher shall not use professional relationships with students for private advantage.
- 2.7 The foreign language/second language teacher shall recognize his/her duty to manifest responsibility, individual initiative, and integrity in his/her teaching and other professional actions within guidelines laid down for the profession.

While it is doubtful that anyone would challenge the ideals behind section 1.11, it lacks suggestion as where the boundary between private advantage and a reasonable person’s personal contacts may cross. Many teachers are paid, in part or full, based on the number of students they teach, and where teachers change employment are they required to leave their student lists behind? Such an issue deserves discussion, particularly in the case of those who are engaged in independent teaching.

There will always be cases where vagueness is required, even expected. Section 2.12 is entirely consistent with rules in many ethical frameworks: division of rules by types, such as (aspirational) principles and (disciplinary) requirements, would allow for clarity in how various types of rules are to be interpreted.

#### *Subject areas encompassed*

Organizing the rules according to the teachers' duties in four directions (students, colleagues, parents and community, and legal obligations) is effective in coordinating the "whom" but it leaves the "what" rather mixed. Including the duty to "advance his teaching qualifications" (sect. 4.3) as a legal obligation is a rather interesting choice: one might suggest that legal duties are somewhat obvious and could therefore become part of a broader "duty to colleagues and the profession." Other general topical areas include the duties of the teacher within the classroom versus duties that extend beyond the classroom, his role as an employee, and a general duty to protect the learners.

*Topics to be considered for inclusion*

There is a lack of definiteness and certainty on several topics which would seem important in the teaching profession. One would be transparency, accuracy, and fairness in testing and grading. While section 1.4 refers to overall justice, it lacks specificity.

1.4 The foreign language/second language teacher shall act, and shall be seen to act, with justice and fairness.

Many institutions develop specific regulations on the development and presentation of grades (including things such as "appeal of grades") whereas many others do not, and grading has been known to be done haphazardly by some instructors. The issue of testing and grading was a topic suggested by teachers participating in a conference workshop/seminar (Dickey, 1998).

Another area which is widely acknowledged in smaller towns, but also particularly pertinent in the case of foreign language teaching, is the question of "teacher as role model." This is a controversial topic (see conflicting lists in Dickey, 1998, 105), thereby meriting discussion, even if a somewhat equivocal policy is set.

Other topic areas for possible inclusion are the development of teaching materials (a highly controversial subject as it can include issues of compensation, expectations of work beyond the classroom, use of textbooks or other pre-selected materials, and the photocopier), private tutoring, cultural conflicts (student expectations), and the question of classroom preparation. This would probably require a change in approach, rather than "the teacher shall" there might be indication of a balance of interests.

The general issue of professional competence is difficult to address in a set of ethics for EFL, where employers may assign teachers to new subject areas or age-groups without regard to teacher preferences or expertise. An obligation for teachers to notify others of their lower competency for certain assignments would only be effective if employers were likely to respect these notices as professionally appropriate. Unfortunately, this is not the case in many educational institutions, but might instead be used as grounds for discipline or termination of employment. As teachers have indicated previously (Dickey, 1998, 105), rules which could be used against teachers by less scrupulous or unknowing employers are to be avoided. On the other hand, although not a collective bargaining agreement, inclusion of employer responsibilities into the code may force employers to be more responsible in considering the code for faculty review (see NAEYC (2005) for an example). In any case provision for self-evaluation of performance should be included. (See American Speech-Language-Hearing Association, 2003, for examples.)

Overall, one must find this draft code as quite encompassing, there are no obviously

missing crucial topics.

*Suggested revision of sentence forms*

In school settings, although teachers are relatively independent within their classrooms most employers establish some sort of hierarchy. Beyond the principal-teacher relationship, there are often formalized supervision or mentoring structures established as well as less formal or temporary conditions. Section 2.3 addresses this situation, yet does so in an awkward fashion:

- 2.3 The foreign language/second language teacher shall accept the authority of senior professional colleagues while retaining the right to express professional opinion.

More conducive to collegial relations, and an appropriate tone for much of this draft code, in its present non-specific nature, might be a change in form and a minor adjustment in the verb:

- (2.3) Foreign language/second language teachers recognize the authority of senior professional colleagues while retaining the right to express professional opinion.

A code of ethics can set minimal standards, provide a benchmark, or promote high standards (or any combination of these). Through use of a consistent formula, these objectives can be clarified.

**The Future of Professional Ethics in Teaching EFL**

A generation ago Sockett (1990, p. 243) argued that a code of ethics was “something to be hammered out as professionalism develops... as we discover what best practice is...”. While we might have agreed with his argument then, time has passed and we seem no nearer a set of standards than we were then. Clearly it is time for an attempt to be made.

In the field of TEFL, where expatriate teachers may change employers or even countries frequently, the need for a global standard that can accommodate local conditions is critical. Enforcement provisions may be difficult, and minimum standards may be inconsistent with local regulations, but well-reasoned statements of aims and ideals will seldom find much opposition. The draft code is very much based on globally-accepted ideals in education, the next step is to refine the individual rules. These lofty aims, clearly expressed, can guide the profession as a whole as well as add clarity to expectations, particularly in situations where standards may not be well established in local cultures.

The draft code of ethics presented by TESOL-Law is unique in an important aspect: this is not the work of a membership society that can call for all members to uphold these rules, nor is it a project by official representatives of a number of such groups. It is unclear whether a system will be developed for individuals to “profess” their subscription to a code of ethics, or that adoption of the code is to be something less public. Whether this situation will be a blessing or a curse is as yet unknown, but it surely affects the disciplinary authority of the code’s enforcement committee (such a committee has been removed from the 2006 draft version). As has been argued (see DeGeorge, 1987, as cited in MacDonald, n.d.-b, and other writers), the mere process of considering and developing a code is an important aspect in the development of a sense of professional ethics, even for those aspects that are never adopted. A code can encourage discussion on the issues and improve how people deal with

ethical dilemmas (Ethics Resource Center, n.d.). On the other hand, if this code can encourage professional bodies to adopt their own codes, perhaps largely based on this design (which would make this something of a “model code”) then perhaps it has accomplished more than it would as a free-standing set of rules.

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**Article Title**

Regulating the Unregulated TESOL Industry

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**Abstract.**

TESOL teaching is rapidly advancing on many fronts. University courses offering Ma TESOL programs are proliferating. The greater majority are well presented – a few are run with less than qualified staff. TESOL certificate courses appear daily and are operated by anyone who can buy or build a web site. Job offerings increase daily across the web. The dangers fraught with accepting a job over the Internet are many for, despite general beliefs that laws exist; there is no effective law to compel truth in TESOL job advertising. The TESOL industry is one of the fastest growing industries in the world – yet it operates in a legal vacuum and thus requires the industry to self regulate. It thus also seems incumbent upon TESOL course providers to add a TESOL Law component to their programs to help fill the legal void.

**Key words:** TESOL. Ma TESOL courses. TESOL Certificates. TESOL legal courses.

**Introduction**

It is estimated there are up to 2 million people involved directly or indirectly in the TESOL field across the globe, (Robertson, 2005). This figure includes non-native speakers of English who work in their native country teaching English. This category also includes university teachers and academics, plus affiliated workers including publishers and recruiters. Over the next decade it is anticipated this number could double as the demand for EIL, English as an International Language takes stronger hold. As China and other third world or less developed countries advance, the need for English in the Business sphere will increase, causing a surge in the demand for both teachers of English and materials.

But as English as a second or foreign language increases its cancer like domination across the globe, it will encounter greater propensities for legal problems. These legal problems, which will cover such areas as industrial law, contract law, Internet law, can be divided into two main categories which can be further subdivided.

**Category One: Legal Problems - ESL countries**

| Location  | Perpetrators           | Victims  | Legal recourse readily available |
|-----------|------------------------|----------|----------------------------------|
| Australia | School owners/teachers | Students | Yes                              |
| UK        |                        |          | Yes                              |
| USA       |                        |          | Yes                              |
| NZ        |                        |          | Yes                              |
|           |                        |          |                                  |

**Category Two: Problems - EFL countries**

| Location                       | Perpetrators  | Victims  | Legal recourse readily available               |
|--------------------------------|---|--|--|
| Non English Speaking Countries | School owners<br>Unqualified teachers<br>Publishers<br>Recruiters | NS & NNS<br>Teachers<br>SLA Students<br>Teachers | NS yes<br>NNS No<br>Possible<br>Possible<br>No |

Somehow this profession has slipped under the radar screen of regulation or self-regulation. This oversight has been and will be disastrous to the advancement of this field of social science. Whilst it can be argued that regulation (laws in place) are adequate to govern this growing field, I submit that only category one countries can be included in this proposition. Category two countries, those that make up the bulk of the second language learning, do not have satisfactory laws or legal systems in situ to respond to growing demands of this social science.

**The Case for Self Regulation vs. the Status quo.**

**The Case for Regulation:**

Regulation in terms of this article include (a) a code of ethics that is supported by all those in the profession (b) accepted courses of legal study for the TESOL industry (c) establishment of a Board who sets the legal standards for the industry.

The first proposition I submit is that the TESOL profession is unique but has yet to be accepted as a serious social science. The back packing image of the profession is still too prevalent and may continue to be that way for at least another decade. According to Nunan, quoted in Robertson, (2005:13)

*In most EFL countries such as Japan and Korea, there is the 'native speaker syndrome., i.e. the notion that if you can speak the language you can teach it.*

Teachers of English, native speakers, are being invited in their tens of thousands each year to foreign countries to teach English. The dominant suppliers of English teachers are Canada, USA, UK, Australia and New Zealand. Other countries include South Africa, The Philippines, and Hong Kong.

Countries that invite native teachers of English are too numerous to list, but major TESOL programs are run by the governments of Japan, (J.E.T.), 1 Hong Kong (NET), 2 Korea (EPIK) 3 and Taiwan (Government program.)

An examination of the contract from Korea shows the differences between what would be called a transparent contract in western legal systems and a non transparent, vaguely worded document that will lead to problems that can only be settled in favor of the employer. The problems with these programs has been well discussed, see Carless (2004) Ahn, (1998). This also raises the cultural communication conflicts discussed by Dash (2003) (Li, 2004) (Mangubhai, 1997) and (Robertson, 2005a), though this adjunct needs separate consideration.

Japan is unique in that it allows foreigners to join unions. See for example the Berlitz Union 4 and the General Union 5. This in itself is a quasi form of self-regulation – for at least in the case of the employer employee, there is recourse for help for wronged employees.

It is submitted that any globalized industry which operates without any form of regulation, (self regulation or written law) as in the TESOL profession, is doomed to be viewed by non-English speaking countries as a backpacking profession which is an ideal situation for the non-native speaking country because it prevents any serious attempt at establishing a recognized profession, the consequence of which would be the raising of meagre salaries and better legal treatment and or working conditions of foreigners who teach English. Davidson (2002) noted the importance of having a field of recognized social science experts, yet 4 years later, no steps have been taken to implement serious change.

Legal problems, ranging from the trivial to the serious abound in the TESOL profession when teachers embark upon a foreign sojourn. These problems are well documented on the law website (efl-law.org.)<sup>6</sup> One well-documented example from Korea suggests that about 30 percent of foreigners suffer serious legal problems during their teaching sojourn. (Robertson, 2005) It is submitted that any profession that fails to self regulate in the face of overwhelming evidence is failing to support that profession which claims to be advancing second language acquisition teaching and learning.

### **The Status Quo.**

Arguments exist as to leaving the status quo in place. These include the views that each country has laws in place to protect the wronged party. These laws include remedies in Contract law, remedies in Industrial matters, and civil remedies in Trade Practices areas. Most countries have a form of Legal Aid available to foreign teachers, with certain provisos that one must earn less than a threshold amount to qualify. An example of legal system at work can be seen in the well-publicized Japanese case of the university teacher, Gallagher, whose contract was not renewed. (Gallagher v Asahikawa University.) The Court decision to support the university was both well accepted by Japanese universities, and resoundingly condemned by observers.

“The Gallagher Case ruling hereby sets a dangerous legal precedent for all expatriate language teachers; it assumes that job qualification also requires the abstract concept of "foreignness." (Aldwinckle, 2000)

The judge was of the opinion that a native English speaker needed a “...recent physical connection...” to his country to qualify as a native speaker. In other words, by implication, if you work in a foreign country for a period of years, you lose the necessary qualities of being a native speaker. It also effectively destroyed the slim chance of any foreigner seeking tenure on the grounds of longevity on one job. This decision is a major set back for the acceptance of TESOL as a recognized social science. Tomei (2001), whilst analyzing the decision and concluding there were three main points for Gallagher to prove her case, misses an underlying legal reasoning – namely, the Flood Gates principle. It was felt by many observers this principle was more at work than any overt cause of action.

At least one other country, Korea, has been influenced by this opinion. Government universities have introduced a University rule that foreigners may only work for a maximum of three years at that university. This, it seems from documents obtained, (7) to have more to do with stopping a court case that attempts to seek tenure on the grounds of long term service.

But the Gallagher case nevertheless showed that foreigners have access to the legal system and thus is an argument against any form of self-regulation. This case though, may be distinguished on the facts that it was situated in Japan where foreigners may join unions, and the union assisted in the conduct of the case. The Korean Immigration Act, on the other hand, forbids foreigners from carrying out activities such as starting or joining a union. Currently this seems to be being eased, or overlooked, as at least one foreigner has joined the Korean Teachers Union, and an unofficial union has been established.

Another case, raised by a U.S. citizen teaching in Korea, originally based on unfair dismissal, and still before the Constitutional court in Korea, is raising secondary arguments of racial discrimination and conflicting Immigration and Education laws. However, unlike Japan where unions will fund worthwhile cases, this case is being self financed and the plaintiff has no legal representation.

### **Areas of TESOL Beyond the Pale of Law.**

One may argue that the TESOL profession is heavily Internet based due to its globalized nature. Thousands of sites exist which offer information and advice on every aspect of second language teaching. Internet law is an area of law that is still developing, and whereas the Internet is global, the laws that are being established are country specific. Although no self regulatory TESOL authority could control Worldwide Web content, it is arguable that Internet content self regulation could be included in any Code of ethics (see sample code of ethics) chat rooms and Web forums are becoming popular places for teachers across the globe to share opinions and thoughts. Two leading forums are [escafe.com](http://escafe.com) (8) and [efl-law.org/forums](http://efl-law.org/forums) – both of course, subject to the laws of defamation.

Hoffman, (2005) considers various issues of Internet law, including the law of defamation. In the U.S. case *Barrett vs. Rosenthal*, Hoffman notes,

“In sum, clearly all posters of defamatory material, as “information content providers,” can be liable and 47 USC Section 230 does not change any of that

liability. What the Court stated was that those who repost materials written or created by others can be held liable for defamation if they know or have reason to know of the defamatory nature of the materials. These “distributors” are not shielded from liability under the provisions of 47 USC Section 230. Further, once an interactive computer service, which includes but is not limited to those who host chat rooms, lists, newsgroups and host sites among other possible interactive computer services, learns of an allegedly defamatory posting, it too can be subject to liability and is not shielded from liability under this section unless they act “reasonably” with regard to the same.”

Whilst this case shows the U.S. has active legal intervention which directly affects those in the TESOL profession, most web sites are not based in this legal jurisdiction. Thus the ruling has limited applicability to the globalized profession.

Over the next decade, as the TESOL profession grows, the following areas of general law will become more prevalent.

- (a) defamation
- (b) false & misleading advertisements
- (c) unfair trade practices
- (d) teacher liability
- (e) general insurance law
- (f) health insurance law
- (g) contract law
- (h) TESOL Certificate issues (mills)
- (i) Publishing standards
- (j) IP theft

It may not be long before Ma TESOL courses add a law component to their courses. One could argue that failure to do so already is tantamount to negligence, for universities are training teachers to enter a profession that requires not only an academic understanding of SLA, but is a failing in their duty to prepare them legally for the rigors of living and working in an alien legal jurisdiction. Another developing area of TESOL is the developing area of business English training. This is an area where mostly unqualified English language instructors hold themselves out as experts in business English. Clearly for anyone to teach business English dictates they hold an appropriate degree that has included a business component – these can range from business degrees to law courses that are heavily accentuated on business laws.

### **Future Law Scenarios**

One area I have not touched upon, but also requiring consideration, is the area of educational malpractice. Whilst some commentators see this a legal impossibility in so far as suing, (Standler, 2000) the alternative legal view is that TESOL is a unique profession where non-qualified teachers are allowed to teach, thus opening the possibility of successful law suits.

### **Conclusion.**

It is submitted that the case for self-regulation in category two counties is imperative.

The legal problems associated with these countries are overwhelming. Formation of a group of industry leaders (e.g. universities and publishers) could be a starting point. Robertson (2004) argued that a TEFL court is necessary.

Other alternatives exist. Dickey (2005) notes the need for a Code of Ethics. It may be that a Code of Ethics could be the basis for self-regulation. This is something that will take some years to establish, but I submit now is a good time to begin - for this profession is going to grow beyond anyone's expectations in the next decade,

### Notes

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<http://www.emb.gov.hk/index.aspx?nodeID=262&langno=1>
3. EPIK. English Program in Korea. Korean government funded foreign language teacher program  
<http://epik.knue.ac.kr/>
4. Berlitz Union. <http://berlitz.generalunion.org/global.htm>
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6. [www.efl-law.org](http://www.efl-law.org) - a legal site and forum helping TESOL teachers across the globe with free legal information
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### **Contract Issues for TESOL Teachers**

By Dr. Jane Alcott

#### **Abstract.**

The most important part of any international teaching sojourn is the contract. Whilst principles of contract in western jurisdictions are understood by most parties, the unique introduction of a foreign legal jurisdiction into the law of contract adds various unknown and at times vague elements.

#### **Bio.**

Dr. Alcott has worked as an attorney specializing in Education Law for 6 years. She is the author of numerous legal articles considering employment law for teachers, contracts for teachers as well as educational malpractice.

**Keywords:** TESOL contracts, contract law, teaching contracts

#### **Introduction.**

Teachers go abroad to teach English. The job is governed by the contract by the contract they enter into either before going to that foreign country, or entered into in that foreign country. Unlike contracts for employment entered into in one's own country, these employment contracts would require a book of their own to describe the legal issues and unique problems that can arise. It has been noted that over one third of teachers do not complete their contracts (Robertson, 2005). However, unlike western systems, it may not be a simple matter of getting legal help when you believe your contract is not being followed. It should also be remembered that breaches in employment in the TESOL profession rarely involve large sums of money, and hence obtaining legal help is often to costly an option to consider.

A contract is an agreement, giving rise to obligations which are enforced or recognized by law, (Treitel, 1999.) In recent pleadings before a Korean court, the defendant, a college who was being sued for unfair dismissal, argued, "The plaintiff is a Canadian citizen and as such, has no legal rights under the laws of Korea." Whilst clearly this pleading flies in the face of international law, it does show the sort of obstacles a teacher can face when trying to sue in a foreign jurisdiction.

In subsequent articles, I will look to the specific problems that are common under a contract, namely unfair dismissal and remedies and other contractual disputes. In this first TESOL contract analysis, it is important to look to general issues that are common to all TESOL teachers who work in a foreign jurisdiction under a contract of employment.

#### **Issues for consideration**

Whilst in normal contractual disputes, the issues revolve around the contract and any

collateral contracts, in foreign jurisdictions where there is a dispute over the employment contract, such as in an unfair dismissal; there is sometimes an overriding complicating factor.

Foreigners are subject to the immigration laws of the country they work in where their visa status is that of visiting alien with a work visa of usually one year's duration. Upon termination of the contract, the sponsor ceases to act in that capacity, thus the teacher is no longer complying with immigration laws, and may only have a short period of time (two weeks) to leave the country. This does not allow the teacher time to seek remedies, unless the immigration office allows an extension of time within which to fight the case.

### **Contractual Problems**

Some of the more common problems that are found in TESOL contracts are:

- a) vague conditions as to how many hours a teacher must work
- b) annual leave provisions that are inconsistent with National laws
- c) grossly inflated tax provisions that are inconsistent with Taxation laws
- d) clauses stipulating procedures for dismissal that contravene Labor Laws
- e) penalty clauses that contravene local Labor Laws
- f) Bonus and severance pay clauses that breach local Labor Laws
- g) Housing conditions that do not comply with the word of the contract

A fairly common situation in TESOL contracts is where the employer repudiates the contract by imposing a wage cut. The employee continues to work (for to resign would see Immigration laws apply and the teacher have to leave the country.) It has been held (Rigby v Ferodo) that the contract had not been terminated by the employers' unaccepted repudiation, but the employee could sue to recover the lost wages.

However before one even begins a TESOL contract, the legal issues can arise that lead into contractual disputes.

- h) false and misleading advertisements advertising job conditions
- i) job Web sites posting jobs with conditions that breach Labor and other laws
- j) recruiters who falsely misrepresent the conditions of the contract

Currently there are proceedings underway by a teacher who accepted a job offer from a job Web site based in the USA, and where the job was in South Korea. The job posting had false and misleading statements which the plaintiff acted upon. Subsequently the plaintiff suffered financial loss as result of this web posting. The plaintiff has joined the employer and the web site as defendants. The action is being initiated out of South Korea. The court has yet to pronounce as whether they will allow the US based web sit to be joined, however, it appears in preliminary arguments, the court will allow this. (ELGazette)

### **Jurisdiction.**

Generally you will be taking legal action in the jurisdiction in which you are working. Thus the general legal principle is that the contract must be presented to the court in the language of that country. There is little point in returning to one's home country and trying to initiate legal proceedings against an ex-employer who is in another country. That involves great

expense, and rarely results in a satisfactory conclusion to the plaintiff.

Most foreign jurisdictions have labor Courts or labor offices that may be able to help when a dispute arises. Usually, these government authorities will be the first place you should visit to resolve the dispute. Where the Labor Office cannot resolve the issue, they may take the proceedings to the small claims court and assist you with your case there. One advantage the TESOL teacher has in going to a labor office seems to lay in the fact that most employers prefer not to have the government authorities looking too closely at their mainly cash run business, and often settlements can be effected quickly, though an employer can counter claim which involves the plaintiff in quite some expense and possibly putting up a substantial security for costs.

### **Recruiters**

This topic alone requires a separate work of itself. Many first time TESOL teachers will find employment via the services of a recruiter. The TESOL teacher should be very alert to the fact that that recruiter may only be concerned with getting their commission for placing a teacher – and thus the teacher should be vigilant to promises or undertakings made by a recruiter which may or may not be true.

*The well-known EFL-Law web site notes the following issues: - The law pertaining to recruiters is quite complex. This is exacerbated because maybe you are in one country, they in another, or where you both meet in the one country (same legal jurisdiction) you then have the perplexing problem of what is the legal relationship between your recruiter and your future employer? It is worth noting that whilst there are some stories of recruiters who promise the world to future EFL teachers, and that inevitably turns out to be heartbreakingly untrue, there are some reputable recruiters. Ultimately, few if any EFL teachers will want to get involved in the expense of suing the recruiter. There are numerous jurisdictions/ USA, UK, N.Z. Canada, Australia, where differing legislation and common law principles exist.*

1. *Is the recruiter your agent or the Employer's agent?*
2. *What written authority from the Employer does the recruiter have to enter/negotiate/contractual negotiations with you?*
3. *Is the recruiter charging you, your future Employer, or both? Does your countries law allow this?*
4. *Does the law of your country have specific provisions pertaining to recruiters?*
5. *Has the recruiter promised you something that is not readily apparent in the contract? Ask the recruiter to include it in writing in the contract. If he says he cannot, ask him to have the employer include it in the contract, and confirm same.*
6. *Have you confirmed with your future employer what the recruiter has promised that is not apparent in your contract?*
7. *Do you know the recruiter's full name, business address and business registration details? Ask for it.*

In this section, the general legal situation is that if a dispute arises in your employment contract, you will not be able to rely on anything a recruiter said or did prior to the contract being signed. The exception to this principle is where you are in the foreign jurisdiction already and a recruiter who is registered in that foreign jurisdiction

misleads you or makes false statements. This of course, is subject to the laws of the jurisdiction you are in.

### **Contracts**

The employment contract should contain details of the following:

1. Names of both the employer and employee
2. Starting date of the employee
3. Job title and description
4. Address of the workplace(s)
5. Details of pay – hourly rate/salary and when it is paid (weekly/monthly)
6. Hours worked each week
7. Holiday entitlement
8. Sickness entitlement
9. Details of any pension schemes
10. If the employee is to work overseas – the period that they will work overseas and the currency in which remuneration will be paid for this period.
11. Grievance arrangements
12. Termination of Contract Notice
13. Disciplinary procedures
14. Signatures of both the employer and employee

The following is a sample contract (EFL-Law.com) which highlights the issues a TESOL teacher should be aware of. This contract does not purport to apply in all situations, for each legal jurisdiction has overriding laws to consider. It does, however, indicate points you should look for in any contract. With contracts of employment, it is rare when the employee gets to present the contract (such as here) for contracts are also known as contracts of adhesions –you are stuck with what you are given. (Dickey, 2004) However, there may be occasions when you can negotiate minor changes to the contract. Point 13 above has been omitted for further in depth discussion in the next edition

### **Employment Agreement for English Language Instructor**

This Employment Contract (hereinafter, the "Contract") is entered into between the Employer { \_\_\_\_\_ }, (Country), (hereinafter the "Employer") and the native English speaker (Name) ( \_\_\_\_\_ ) (hereinafter the "Employee") a/an ( \_\_\_\_\_ ) citizen residing in ( \_\_\_\_\_ )

### **Definition Section.**

For the purposes of this contract, the following words have the following mean;

"*Lesson hour*" for the purposes of this contract is 45 minutes.

"Letter of Release" is the prescribed document written by the Employer to grant the

**Employee permission**

to change Employers and is for presentation to the (xxx) Immigration Department.

"*Must*" is an absolute condition.

"*Public Holiday*" means a day that is set aside by government proclamation as a holiday.

"*Recruiter*" for the purposes of this contract, includes anyone who has acted with the express approval of the Employer and has been given express authority to modify and negotiate terms of the contract.

"*Shall*" where recorded in the contract, indicates a condition that is obligatory, except where Laws to the contrary override its use, or where use results in unfairness or inequity.

"*Split shift*" is defined as any work that requires the Employee to work in the morning, conclude his/her duties, then recommence later that same day with a period of two hours or greater separating the working hours.

"*Teaching lessons*" for the purpose of this contract include Employee student contact lessons, compulsory staff meetings and or compulsory training sessions.

"*Will*" where recorded in the contract indicates a duty the party is obliged to do, except where that duty contravenes another provision recorded in the contract.

"*Work place*" is the primary place of employment of the Employee and does not extend to a second location.

"*Working hour*" for the purposes of this contract is 60 minutes.

"*Working Week*" excludes Saturdays and Sundays and Public Holidays.

**Article 1. (Term of Employment)**

{1} The Term of Employment shall commence on \_\_\_/\_\_\_/2004 and ends at midnight on \_\_\_/\_\_\_/2005

**Article 2. (Salary)**

{1} The Employee shall be paid the total amount of (xxx) per month.

{2} The Employer will deduct Income Tax and or Pension Contribution and or other obligatory taxes as required under local law and as set out in itemized form in Schedule One (1) annexed hereto and signed by both parties.

{3} The Employee's salary will be paid on the 25<sup>th</sup> day of each month no later than 3.00 p.m. on that day. Where that day is a Saturday, Sunday or Public Holiday, the Employer must pay the Employee on the immediate preceding business day.

{4} The Employer guarantees to pay the amount stipulated in Article 2 {1} above irrespective of whether the Employer provides the hours stipulated in Article 4 or not.

{5} If the Employee has been absent from his designated work place without prior approval, that salary may be calculated on a pro-rata basis for the days absent.

{6} If the Employer fails to comply with the provisions of (1) herein for a further 7 days beyond the specified date, the Employer must, for every day the salary is late, or part thereof, agree to add that time to the Employee's vacation in addition to Article 10 hereof.

{7} Where the salary is later than 7 calendar days from the date of pay, the Employer agrees absolutely to supply the Employee a Letter of Release from the contract.

{8} Where the Employer deducts contributions to a Pension Scheme, the Employer will provide the Employee with the information set forth in Schedule 2 annexed hereto.

**Article 3. (Severance Pay)**

{1} The Employer must pay (Severance Pay) (Bonus pay) proscribed as (money amount) (being the average of the Employee's last three month's salary in the following manner as agreed and initialed by Employer and Employee: (a) as a lump sum payment at least 3 working days prior to the completion of the contract.

{2} Any deductions from (1) of this Article shall be noted in Schedule 3 annexed hereto and signed by both parties.

**Article 4. (Working Hours)**

(1) The employee shall work a maximum of XXX hours per calendar month..

{2} Working hours will comprise XX working hours per working week and Lesson hours will comprise a maximum of 30 lesson hours per week

{3} The working week for the purpose of this agreement excludes XXXXXXXXXXXXXXXX

{4} The Employee shall not work a split shift, except where both parties agree otherwise.

{5} The Employer must pay overtime for all working hours in excess of ( xx) minute lessons (calculated) per month. The rate for overtime is calculated at (XX rate) per lesson.

{6} That the Employer might require the Employee to work a different schedule during the government school vacation period and the Employee agrees provided always that the Employer provides the Employee with seven XX calendar days advance notice of said change.

{7} The Employer may change the agreed working hours pursuant to this agreement with the agreement given and recorded of the Employee.

{8} For this purposes of this part, a lesson is calculated as 45 minute, thus two thirty minute lessons would equal one (1) worked lesson plus 15 minutes of the next lesson calculation.

[9] There shall be a 10 minute break between lessons of 45 minutes duration, and 5 minutes break between lessons of less duration.

{10} If the Employer fails to provide the agreed lesson hours per month, the Employee is deemed to have worked the full lesson hours as stipulated in this contract.

{11} Where a Public Holiday falls, the Employee is deemed to have worked those hours otherwise worked and no carry forward shall be made.

{12} Where the Employer requires the Employee to attend on such events as field trips, picnics, etc, the time shall be calculated as from the time of leaving the place of employment to the time of return to the place of employment.

{13} Where the Employer requires the Employee to do non teaching related duties such as but not limited to (a) phone English (b) phoning students (c) actively canvassing for students, or such similar duty, that time shall be calculated as time worked as overtime or as lesson time pursuant to this Article

{14} For the purpose of this contract, every 10<sup>th</sup> lesson will be deemed preparation time and no teaching shall occur during preparation time.

**Article 5. (Housing)**

{1} The Employer must provide the Employee with housing. Housing selected by the Employer may include a leased house or an apartment.

{2} If the Employer is not able to provide housing pursuant to [1] hereof, the Employer must provide the Employee with (xxx) per month as rent subsidy in lieu of the housing set forth in [1] hereof.

{3} The Employer may provide temporary housing not exceeding 30 days until appropriate housing becomes available.

{4} The Employee may be required to share the said housing with no more than one other person.

{5} The Employee is liable and responsible for all and any fees, namely utility charges, gas, electricity, telephone, incurred whilst the said Employee is in residence.

{6} The Employer must provide the Employee's accommodation with furniture, including but not limited to (one bed, one wardrobe, kitchenware, refrigerator, bedding, washing machine and cooking utensils).

{7} The Employee undertakes to take all due and reasonable care of said furniture and equipment, and that the Employee shall be liable for the cost of repairs or replacement to any equipment or furniture damaged as a result of the Employee's negligence.

{8} Where this contract is agreed to outside of Korea and the Employee has NOT seen the accommodation, nor has it been certified as acceptable for living by an agent of the Employee, this contract is absolutely conditional upon acceptance on sight of the accommodation by the Employee. Where the Employee declines the accommodation upon sight, the Employer must house the Employee in hotel accommodation at the Employer's cost until suitable accommodation is agreed.

{9} The Employer agrees at all times that no deductions from the Employee's salary will be made whatsoever in relation to this Clause, except where the written and signed agreement of the Employee is first obtained, and specified in the Schedules annexed hereto.

#### **Article 6. (Airfare)**

(1) The Employee's economy airfare to (xxx) via the most direct route from outside (xxx) to the nearest airport nearest to the place of employment will be paid in full by the Employer.

(2) Where the Employee has paid for the said economy ticket, the Employer will reimburse half (50%) to the Employee 10 days or sooner after arrival in the country of employment.

(3) Where the Employee completes the contract as stipulated in Article 1 hereof, the Employer must pay to the Employee no later than XX days prior to the end of the contract, the return economy airfare to the point of hire outside of (xxx) upon proof of said ticket purchase.

{4} Where the Employee is hired in the country of employment, the Employer shall pay all reasonable costs including airfare and accommodation for the Employee's visa run to the nearest non mainland Embassy.

{5} Where the Employee terminates this contract within 6 months of the commencement date, the Employer may deduct the air fare paid pursuant to (1) herein from the final salary.

#### **Article 7. (Medical Insurance)**

(1) The Employer must pay the full/half (% to be agreed) medical insurance coverage of the Employee.

{2} That the Employer must provide the Employee a medical insurance certificate or booklet from the Insurance company within 14 days of commencement of insurance contract as stipulated in Article 1 hereof.

{3} This is a fundamental term of this contract, the breach of which allows the Employee to terminate the contract immediately with no further notice required.

**Article 8. (Sick leaves)**

- {1} The Employee shall be entitled to (XX) paid day's sick leave per contract, calculated as one day per month accumulative.
- {2} Where the sick leave exceeds two consecutive days, the Employee must provide the Employer with a certificate signed by a medical practitioner.
- {3} The Employee must advise the Employer as soon as possible of the sick leave and expected duration thereof.
- {4} Sick leave above and beyond the said (XX) working days stipulated in [1] hereof, shall be unpaid, except where the Employee requests to use vacation time to cover the sick leave.
- {5} Those who renew their contract pursuant to Article 14 shall have unused sick leave transferred into the succeeding contract.

**Article 9. (Job Description)**

- {1} The Employee shall carry out all duties required by the Employer to (a) provide English language lessons to students and or local teachers.
- {2} The Employee shall only be required to work at the primary place of employment, and where a secondary place of employment is required, the Employer must pay the Employee traveling expenses, and where travel exceeds 60 minutes via any transportation, the Employer will pay an hourly wage for the said travel time pursuant to Article 2 hereof, or calculate said travel time as lesson time.
- {3} That where a secondary or further place of employment is required by the Employer, that the Employer must inform Immigration of said place(s) of employment, and that all and any expenses relating to non compliance of the Immigration law must be borne by the Employer. Further, that said notification must occur prior to application of attending at said second or other location.
- {4} Where the Employer requires the Employee to attend at meetings not designated as teaching lessons, the Employer shall count each 45 minute period attended as a worked lesson.
- {5} The Employee agrees to abide by the reasonable dress code set by the Employer.
- {6} That where the school desires to video or film or transmit live images of the Employee's teaching, the Employer shall first obtain the approval of the Employee.
- {7} The Employer agrees that no video images or photographic image of the Employee shall be used for advertising or uploaded to the Internet without first the said approval of the Employee being given.
- {8} Where the Employer requires the Employee to attend training sessions, meetings, or other mandatory attendance sessions, the Employer shall pay the overtime rates for said time or said time shall count towards the hours specified in Article 4.

**Article 10. (Vacation)**

- {1} The Employee shall be entitled [ xxx words] working days annual leave per contract.
- {2} In the absence of both Employee and Employer agreeing upon mutual time for taking said leave, the Employee's leave shall commence (xxx) working days prior to the end of the contract date specified in Article 1 hereof.
- {3} If clause [2] hereof applies, the dates stipulated in Articles 3 (1) and [6] (3) are subject to this Article.
- {4} The Employee shall be entitled without exception to all public holidays stipulated by

government proclamation in addition to Clause [1] .

{5} That where a holiday, being a Civil Service holiday, is proclaimed at short notice, and the Employer requires the Employee to work the said holiday, the Employer shall permit the Employee to take one day off at a time to be agreed, or in the absence of agreement, the said day shall be added to clause (1) of this Article.

{6} That where the Employee has worked the entire contract without absence, the Employee shall be granted a further 5 working days leave, or where the contract has concluded, 5 days pay in lieu of said leave, exclusive of any other entitlement herein.

{7} The Employee is entitled to XX calendar day's emergency leave for family emergencies. This leave shall be unpaid but shall not affect any other clause whatsoever as to the contract term, severance pay, airfare.

#### **Article 11. (Termination of Contract)**

{1} The Employer may terminate this contract upon occurrence of any one of the following events; (a) if the Employee violates the criminal laws of the Republic of Korea as found by a court of Law (b) If the Employee fails to perform the duties or unsatisfactorily performs any of the duties stipulated in this contract, as indicated in Schedule 4 hereto, (c) if the Employee fails to perform the duties specified herein continuously for more than 5 working days without excuse (d) if the sick leave used by the Employee exceeds 20 days, (e) if the Employee undertakes any other paid teaching duties outside of this contract, except where written approval has first been granted by the Employer.

{2} In the event that this contract is terminated pursuant to the foregoing [1], the Employer shall pay the Employee up to the date of termination, plus one month's salary. In such case, the Employee shall be absolutely liable for his return flight ticket costs, and the Employee's visa shall be canceled forthwith.

{3} In the event of clause (a) termination, the Employer may, if this section occurs within 3 months of the start date hereof, not be liable for the return airfare of the said Employee, and (b) the Employee may seek reimbursement of the airfare paid pursuant to Clause 6 hereof.

{4} It is a condition of this agreement that the Employer must provide the Employee with XX days written notice of Intention to Terminate the Contract, setting forth the reasons therein, and allowing the Employee sufficient time to remedy the situation.

{5} The Employee should give 30 days notice of intention to resign or not renew the contract, except in case of documented emergency requiring the Employee to return to his home country, wherein 2 days notice is desirable.

{6} Where the Employee is dismissed pursuant to any sub clause herein with the exception of 11 [1] (a), the Employer agrees to provide the Employee a Letter of Release and inform Immigration that the said Employee may commence work with another Employer forthwith.

{7} Where the Employer invokes Clause (1) of this Article, the Employer agrees to allow the Employee up to XX calendar days to vacate school accommodation.

#### **Article 12. (Immigration and Alien Registration Card)**

{1} That it is a fundamental term of this Contract that the Employer completes ALL necessary steps to legalize the Employee's stay in Korea immediately upon Employee's arrival in (country of employment)

{2} That the Employer undertakes and guarantees to pay all and any fines or fees incurred as a result of not complying with [1] hereof.

{3} That the Employee shall be entitled to attend at Immigration without said Employer if said Employer fails to complete or satisfactorily initiate as soon as practicable the Immigration requirements.

{4} That failure to complete said Immigration proceedings and issuance of Alien registration Card within 31 days of the date of arrival in Korea constitutes a fundamental breach of this contract, and that the Employee may terminate immediately the said contract.

{5} That the Employer must pay the Employee 3 month's termination salary immediately if (4) herein is invoked.

{6} That where the Employer requires the Employee to work at any other location apart from the primary location stipulated in the Immigration Registration documents, the Employer must obtain Immigration permission before hand and shall be liable for all and any costs associated with this change.

**Article 13. (Other Benefits)**

{1} The Employer shall provide the Employee with a one time non refundable settling in allowance of XXX within 48 hours of his/her arrival in the Republic of Korea.

**Article 14. (Renewal of Contract)**

{1} No later than 1 month before the date of termination as set fort in Article 1 hereof, the Employer and Employee shall agree upon an extension or termination to this contract.

{2} In the event of a renewal of contract, the Employer shall provide the Employee with a return airfare economy ticket from the city of employment to the Employee's nearest home international airport.

{3} That the Employer will grant the Employee a XX day paid holiday between contracts, which said holiday is in addition to any other leave provisions herein, and shall constitute time under the renewed contract, and is in addition to any other benefit herein this agreement.

**Article 15. (Governing Law)**

{1} The terms of this contract and the rights and obligations of the parties to this Contract shall be construed and determined in accordance with the Laws of (country of employment)

{2} That the governing language for this contract shall be Korean provided always that the Employer provides the Employee with a true and faithful translation of the said Korean wording.

{3} That the Employer and the Employee must sign both country of employment language and English language version of the said contract.

**Article 16. (Recruiters)**

{1} This contract was concluded inside/outside (country of employment) with/without the express approval of {\_\_\_\_\_}( Name of recruiter), who was/was not authorized to act on behalf of the Employer herein, and whose promises annexed hereto in Schedule 5, shall be binding/non-binding upon this contract.

**Article 17. (Professional Development)**

{1} The Employer agrees to allow the Employee to attend three Professional Development work days during the term of this contract. These days include but are not limited to such

Professional Development programs as: Conferences, Oxford Book days, etc.  
{2} That the Employee shall not be obliged to work any lessons on the Professional Development days.

{3} The Employer agrees to pay half the reasonable traveling costs for such Professional Development.

**Article 18. (Labor Law)**

{1} Where the Labor Laws of the governing country provide benefits not referred to herein, those laws shall be imported herein and applied in toto.

**Article 19. (Confidentiality)**

{1} This Agreement creates a confidential relationship between Employer and Employee. Information concerning the Employer {Company Name} business affairs, methods of operation, computer programs, employees, documentation, student data, teaching materials and other such information whether written, oral, or otherwise, is confidential in nature. The Employee will adhere fully to this confidentiality agreement

**Article 20. Entire Agreement**

{1} This agreement and the schedule annexed hereto represents the full understanding between the parties

and there is no other agreement, oral or written, between them, and that this agreement may not be modified without an agreement in writing signed by the party to be charged. This contract is in effect until written notification of termination from either party.

**Accepted And Agreed:**

Employer: \_\_\_\_\_  
(Signature) \_\_\_\_\_  
(print name) \_\_\_\_\_  
Date: \_\_\_/\_\_\_/2004

Employee: \_\_\_\_\_  
(signature) \_\_\_\_\_  
(print name) \_\_\_\_\_  
Date: \_\_\_/\_\_\_/2004

**Conclusion.**

The law of contract for TESOL teachers is worthy of a book in itself. Contract law which teachers are familiar with in western jurisdictions becomes intertwined with legal concepts found in foreign jurisdictions and compounded by over riding public laws. When signing a contract, it is always prudent to ask yourself some simple questions:

- a) do the clauses make sense
- b) has the contract covered all key points
- c) what public laws are also at play in the new legal jurisdiction

If you can answer these questions confidently then you are one step closer to having a

successful sojourn. When in doubt, you can always post your question on the legal forums at EFL-Law.org/forums and receive good advice no matter where you want to teach. As well as confirming the contracts legitimacy, you should also make further enquiries that go to the nature of the employer you are going to work for. 30 percent of TESOL sojourns finish in dispute – thus there is high probability you will face problems during your stay abroad. By learning the basic laws of contract and remedies that exist in your proposed country of sojourn, you are well prepared to face the new job. As always, and by way of disclaimer, you should always consult an attorney or lawyer and have him or her advise you on contractual matters.

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**Title**

The Law of Business English in China.\*

**Author**

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**Bio:**

Dr. Kelly has a PhD in Education and an MBA. He currently lives in Korea teaching Business studies and MBA studies.

**Keywords**

Second Language Teachers, Business English, Business English qualifications

**Abstract:**

Each year thousands of foreign language teachers descend on Asia to teach English. The majority are unqualified. Almost all have absolutely no qualifications to teach Business English, let alone English. As China develops into an economic giant, the demand for Business English grows at an exponential rate. Yet those teaching and those providing the medium for teaching are doing the future business leaders of China a great disservice. Small professional schools are appearing – but it is imperative the Chinese government consider legislative action in the near term to develop and promote professional business English schools and to regulate the Foreign Service providers. Whilst China is the focus of this work, it should be noted that other Asian economies such as Korea, Vietnam and Korea are also beset by issues of incompetent business English teachers practicing their pseudo trade. The law of Business English is a misnomer – there is no law covering a field that is neither established nor credible.

**China's growing economy**

There is no doubt that the surge of interest in English skills is consuming China. Along with this general demand is the growing Chinese economy – much of it dealing with the west. On the whole the foreign experts found in China in schools and Universities are graduates from Universities who are merely out for a one-year adventure and have no skills at teaching.

At the other end of the spectrum are the more elderly teachers who in fact have do have experience in Business English – many are retired from such professions as law, business or other professional ways of life – and they have gone to China in their retirement. However, across China, as much of Asia, age is a barrier to teaching to English. The average Asian school demands a western female in her mid twenties. Discrimination in job advertising is rife and goes on unabated, helped along by job boards that perpetuate the discrimination. Discrimination in employment is not a law that is actively pursued in many Asian nations.

Yet the irony is that schools demand experienced Business English teachers – but are not willing to accommodate those over 35. Griffith (2005) notes,

Despite the rumors, a native's knowledge of the English language is not an automatic passport to employment anywhere abroad. It can, however, be put to profitable use in many Asian countries. In Korea, Taiwan, Japan, Thailand and, increasingly, China a high proportion of the population are eager for tuition from English speakers. A university degree in any subject is the only prerequisite, though in some cases just a degree of enthusiasm will suffice.

As in English teaching, there are no written laws governing this field. An examination of Asian laws covering Education Law, Immigration law, Business Practice Law, Trade Practices laws, shows no reference at all to the subject of Business English. The distinction between an English teacher and a Business English teacher is seemingly non-existent. An example can be seen through a leading employer of Business English teachers in Korea. The wage for teaching company executives and the wage for teaching kindergarten English is the same.

### **The Demand for Business English**

Across Asia there is a growing demand for teachers with business English skills to teach the subject. Oxford University Press offers a variety of good textbooks, yet according to the company, sales of books are slow. Thus we have the unique phenomenon of the market demanding skilled teachers, the market supplying good materials, yet no one to fulfill the demand. A glimpse at Korea and Vietnam shows companies subcontracting out 'expert business English teachers,' yet teachers are no more than the backpacking unqualified tutor.

One case involves an international company who has in house business English teachers. Reports from those studying at this unit show the teachers to be poorly trained in business skills and which said positions are filled by those who fit the criteria of youth first, with reference to business skills rarely considered. One manager taught by the unit noted the writer in survey form that he felt the teachers were poorly equipped to train the management, and that the company was wasting money on such a poorly skilled unit. This sentiment has also been found at two other global companies, one in China and one in Japan.

In Beijing three companies hire out business English teachers, yet it is clear these teachers know no more than that which appears in the text books they teach from. Fees paid by companies are high, yet the teacher receives a fraction of that payment. Invariably, the teacher teaches for one or two months and the students or company loses interest as there is no structure, and the teaching finishes.

Thus the irony is that whilst Business English tries to establish itself as a serious profession, the willingness of the end user to accept teachers who are not qualified is taking the profession in the wrong direction.

### **The Business English teachers**

What qualifications does a business English teacher need to teach in Asia? The answer: none. There are various reasons for this ranging from non-regulated teaching institutions to poor government legislation. At a recent conference I attended in Seoul for English teachers, a presentation on Business English skills was given by a teacher of English who clearly had little or no understanding of Business English concepts – yet the audience eagerly accepted her lecture which contained frequent false and misleading information, both as to business

English skills, and company issues.

Secondly, business's themselves, whilst demanding business English, have no clear concept of just what business English is. This can reflect many reasons from business's run by non-qualified ventures, to business's run by top-heavy management, whose age is high 50s to 60s, and who have no concept or understanding just what business English or should achieve.

Japan is the jewel in the crown of thorns. Business English has taken on a serious face – one of professionalism and regulation. Organizations produce business English manuals – hold conferences and training sessions – and promote the professionalism needed in such a trade.

### **Course and Materials**

One of the important issues to remember is that whilst universities and colleges across Asia teach business studies, business English is assumed to rest in the hands of the native English speaker. As most teachers of English are not qualified to teach English, those who are invariably have no business English skills training. One may even present the hypotheses that business English is an industry built on a false conception, and that there is no such thing as business English. Rather, business English is in fact a specific entity using English. We do not, for example, call airline English, pilot English or stewardess English (Jung, 2005), thus to label business English speaking as business English is another example of market manipulation at the expense of reality.

### **Remedies**

Remedies in theory and remedies in practice are poles apart. The issue is not one of just poorly trained teachers pretending to teach business skills. It is also a matter of companies accepting second best – trying to cut corners by paying poor salaries for something that needs only professionals. A look, for example, at the materials used by Samsung in Korea show they are poorly prepared, at times wrong, at times false and misleading, and at times not reflecting sound business English training skills.

Until Asian countries stop employing backpacking tourists who pretend to be a teacher for one year, the situation will deteriorate. However, as long as countries such as China and Vietnam pay mere hundreds of dollars for such teachers, no serious professional would ever consider going to such countries.

Clearly, for business English to become a recognized and serious field of English language teaching, course providers, TESOL certificates or Ma TESOL. Universities should implement units that include this area of study.

### **5. Conclusion**

Business English training in most Asian countries, with the exclusion of Japan, will, for the foreseeable future, rest in the hands of the incompetent teachers and poorly advised company managers. Laws do not exist to cover this area of training or education. The time is clearly ripe for any professional well-financed Educational entity to enter the markets and provide professional services. One company could supply over 10,000 teachers across China. This company would thus be in apposition to provide well-trained business English teacher, and assure the Asian companies that they were getting value for their money and skills that would enhance the companies' reputation.

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**Title:**  
**Best IP Protection is Through Education, Not More Enforcement Actions**

**Author**  
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**Bio:**  
Martin Wolf is a Professor of International Business Law at Jiangxi University of Finance and Economics. Martin Wolff, J.D. was born in Rochester, New York, USA. He obtained his Juris Doctor degree (1976) from Loyola University, Los Angeles, Ca. He has taught Legal English, Business English, Business Management, Marketing, Human Relations and English Conversation. He is currently a Foreign Expert at the Xinyang Agricultural College, Henan Province.

**Introduction**

It is beyond dispute that China has some of the most comprehensive and up-to-date Intellectual Property (IP) protection laws of any country in the modern world, in conformance with its accession to the Berne Convention and the Geneva Convention.<sup>1</sup> This is a direct result of China's serious fourteen-year pursuit of World Trade Organization membership and compliance with its WTO obligations.<sup>2</sup>

"On October 27, 2001, China promulgated the amendment to its PRC, Copyright Law of 1990 (the Copyright Law). The amendment came into effect upon its promulgation. The purpose of this amendment was to bring China's copyright protection to full compliance with relevant international conventions. It seems more than coincidental that the amendment was promulgated one week before China signed its WTO accession documents; the amendment was issued in all likelihood to prove that China is making efforts to honour its WTO commitments."<sup>3</sup>

China acknowledges that its own IT sector is retarded due to lack of transfer of foreign technology and lack of foreign investment, both caused by lack of foreigners' belief in IP protection in China.<sup>4</sup>

China has ratcheted up IP enforcement with record numbers of prosecutions in all provinces and semi-autonomous regions, because China sees this as being in its own economic best interests. Yet, organizations like AmCham assert that while such enforcement actions are laudable, they fall far short and suggest that the situation is getting worse, not better.<sup>5</sup>

The Asia-Pacific Council of American Chambers of Commerce asserts, "Aggressive enforcement of intellectual property rights will benefit both consumers and businesses. Encouraging the enforcement of IPR rights will allow U.S. companies to reap the benefits of their investments, and will also encourage additional businesses, particularly small- and medium-sized enterprises, to participate in the global marketplace."<sup>6</sup>

This myopic world-view taken from a "business only" perspective ignores the most

fundamental principles of Globalization, cultural diversity appreciation and understanding.

For five thousand years the Chinese have had no concept of private intellectual property rights. Under the Emperor Dynasties and more recently the Socialist Economic System, the government owns all real and personal property, including celebrity endorsements.<sup>7</sup>

1.3 billion people cannot be expected to embrace such a foreign concept over night. IP protection is brand new (last 20 years) and the basic change in recognizing private ownership of IP is hard to teach and hard to accept. Only 53 percent of the people even speak Mandarin<sup>8</sup> and more than 8.72 percent are illiterate.<sup>9</sup> That is one-hundred thirteen million illiterates in China. An entire society needs to be taught about the value of private ownership of intellectual property.

This educational process must begin at China's universities where libraries allow and even encourage wholesale copying of entire books. Under the socialist economic system the government owned the books (copyrights were non-existent) and the people are the government. So, the people copy what they already own and thus are not stealing anything from anyone. This practice continues to this day. Chinese libraries still allow this practice to continue unabated without even a cursory check to see if the book has an EISBN number.

The Chinese universities are the Research and Development labs for China and yet 75 percent of them fail to patent their own inventions.<sup>10</sup> India is as adept at copying China's non-patented pharmaceuticals as China is at copying America's copyrighted DVDs.<sup>11</sup>

Chinese people understand that it is wrong to steal tangible goods but there is no concept that taking IP without compensation is wrong. Intangible thoughts and ideas have no reality as something that is subject to theft, even when they are reduced to a writing or artwork.

On any given day, in any given Chinese bookstore, there are more people sitting on the bare floor stealing IP (reading books for free) than patrons in the local library. Even the bookstores encourage IP theft. There are no signs prohibiting free reading and no enforcement of such a "foreign" idea. The people know that they cannot take the book out of the store without paying for it, but they do not understand that their act of reading it without compensation also constitutes a theft.

A major Shanghai university teaches IP protection using a Prentice Hall book, copied in violation of the copyright laws. This university has a teacher stand in front of the class and teach that it is wrong to steal IP while teaching from a stolen textbook. This is hypocritical and sends the wrong message to the students who are the next generation of business and government leaders.

The universities must teach, not just preach, IP protection and they must implement what they teach. China's universities are teaching the next generation of political and business leaders, as well as the next generation of teachers. Education is the fundamental key to change, not enhanced enforcement actions.

Increasing IP enforcement actions tenfold will not accomplish the desired transformation of Chinese thinking and attitude towards IP ownership and protection. This can only be accomplished through proper education, not hypocritical half-hearted educational efforts.

It is no easy task to bring such fundamental change to the thinking of 1.3 billion Chinese people. It requires a psychological revolution of unprecedented proportions

to create a new ethos where none has existed before. Enforcement actions undoubtedly have an effect on those successfully prosecuted but to assume a deterrent effect that will sweep throughout China's society is to continue to believe that capital punishment deters murder or other serious crimes.

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**Title:**  
**English for Military Purposes in the Age of Information Technology**

**Author:**  
Neil McBeath

**Bio:**  
The writer of this paper served for twenty four and a half years (1981 – 2005) as a uniformed education officer in the Royal Air Force of Oman teaching EFL, ESP and English for Military Purposes. He was personally awarded the Distinguished Service Medal by His Majesty Sultan Qaboos.

Prior to service in Oman, he worked in British Further Education, teaching English and EFL. He now works in Saudi Arabia, teaching cadets from the Royal Saudi Air Force at the Technical Studies Institute in Dhahran.

**Qualifications:-**  
B.A. (Southampton); Post Graduate Certificate of Education (Southampton); M. Sc. (Aston); M. App. Ling. (Macquarie).

**Abstract.**

This paper offers an insider's view of English for Military Purposes (EMP). It suggests that international security concerns have moved away from the Cold War scenario of recognizable enemies facing each other, into a realm where established state forces face more nebulous threats and a growing role as providers of humanitarian assistance. Against this background, there is an increasing need for effective communication between and among multi-national forces, and English has become the channel of that communication. The paper then explores the different approaches to EMP that can be seen in America (the American Language Course) and Britain (the Partnership for Peace). It concludes by suggesting that the impact of information technology will force current providers of EMP to re-examine their methodology.

**Key words.** English for Military Purposes (EMP), Partnership for Peace, EFL/ESP/EAP/EMP

**Introduction.**

This paper is a possibly doomed attempt to look into the future. By examining the changing roles of the Armed Forces at the start of the 21<sup>st</sup> century, I hope to suggest how those roles

are likely to develop in the course of the next 20 years. I also intend to examine the two principal current models of teaching English for Military Purposes (EMP) before demonstrating the extent to which information technology is likely to impact on the materials, the students and the instructors.

### ***Multiskilling***

Multiskilling has been with us for some time, but it has acquired a new significance in the post-Cold War World. Woods (2004) cites Zapatista who claims that we are already involved in the Fourth World war. His argument is that after two “hot” wars – World War I and World War II – there was the Cold War which acted as a Third World war. The USA and the Soviet Union fought each other by proxy, frequently using covert approaches to remove or install governments, and sometimes using open methods of war – Korea, Vietnam, Cambodia and Dhofar.

These wars were easily understood, and the part played in them by national armies was obvious, and was intended to be obvious. The Fourth World war is more opaque. It is based on international co-operation, often between states that seem to have little in common, and it is waged against “anti-state” forces – international drug dealers; international “terrorists”, however the latter are defined. (Al Qimam Multimedia 2004).

In this climate, multiskilling is a sensible approach. To begin with, it is cost effective. During the Cold war, the USA was able to afford the luxury of having one man do only one job, and at NATO HQ in Brussels, the Americans indulged that luxury. The US Army employed Master Typists – note, NOT clerks – whose only job was to type correspondence. If there was no correspondence to be typed, these men sat idle.

Even American military funding, however, must have a limit, and it is obviously more cost effective to train, say, a computer operator who can employ a range of clerking skills, or avionics technicians who can follow assimilation training and work with Flight Systems, Communications and Radar.

Secondly, multiskilling adds to the professional pride of military personnel. Russia is now almost unique in maintaining a huge, badly disciplined, poorly led conscript army. Their casualties in Chechnya are testimony to this. NATO forces are almost exclusively professional. They are trained to react to different situations, and proud of their own expertise. These forces do not aspire to be anything but the best. They are trained to regard their military service as a challenging role that sets them apart from civilians.

### **Interoperability.**

This leads to what Woods (2004; 27) terms the “jargon word” of interoperability.

Interoperability indicates the ability of military, paramilitary and security forces, from different linguistic and national backgrounds, to work together for a common aim.

Recently, of course, we have seen military-led international relief efforts on a massive scale in the wake of the December 2004 tsunami. The response of certain countries was controversial, and some political pundits were quick to raise suspicions of ulterior motives. The plain fact of the matter, however, is that with the best will in the world, civilian agencies working on their own would have been unable to cope with any natural disaster that killed some 300,000 people in a matter of hours, over so large an area of the globe.

What has also been interesting has been the extent to which international military forces had to liaise with each other and the shortcomings that the tsunami revealed. To begin with, Sri Lanka openly admitted that its own military and security forces were overwhelmed by the scale of the disaster. Within hours, Sri Lankan paramilitary forces had been deployed to dispose of corpses and prevent the spread of disease. After that, American, British, Canadian, Indian and Pakistani forces were dispatched to aid the Sri Lankans, but even this move was controversial. The Canadian authorities were alarmed to find that it took 11 days before their Disaster Assistance Response Team (DART) was able to land supplies in the field. (Hobson 2005)

In Indonesia, moreover, the complete devastation of the civilian infrastructure in Aceh province brought other complications. Outside relief agencies, both civil and military, found that they were arriving in a former war zone, but that there were no remaining local authorities. Liaison was difficult, and the Indonesian military forces were suspicious.

The American forces, in particular, had difficulty grasping the complexities of the situation. One American officer, writing from the aircraft carrier Abraham Lincoln, felt that the role of the Indonesian liaison officers on board was "to encourage our leaving as soon as possible. They want our money and help, but they don't want their population to see that the Americans are doing far more for them in two weeks than their own government has ever done for them." (Sherwell and Gilmore; 2004)

The free Aceh Movement might well agree with those sentiments, but they might also recognize the irony of American troops "saving the lives of their people, some of whom wear Bin Laden T-shirts as they grab at our food and water" (Sherwell and Gilmore; 2004)

And there's the rub. One person's terrorist is another's freedom fighter. The massive international outpouring of funds to help in the tsunami relief programme shows that this type of humanitarian operation enjoys almost universal support. In democratic countries, however, there may be genuine libertarian concerns about the use of government money to stifle (possibly legitimate) dissent, and there may even be disquiet about the spending of public money on the types of covert action that are required to counteract the operations of international criminal organizations.

There is the added difficulty, of course, when criminal organizations become interconnected with government agencies, to the extent that governments themselves become criminal.

In 1998 I gave a paper at the IATEFL SIG Symposium in Gdansk (McBeath 1998; 1999) in which I drew attention to the fact that Jordanian troops were part of the then ECOMOG forces in West Africa, and that at the same time, the UAE had dispatched military assistance to Macedonia, working with civilian refugees from the Kosovo conflict. In both these cases, Arab forces were engaged in interoperability, liaising not only with military forces, but also with local government agencies and international non-government agencies like Medecins Sans Frontieres, the Red Crescent and the Red Cross.

In both West Africa and Kosovo, the international community had sanctioned the deployment of multi-national forces because national governments had shown themselves either unable or unwilling to maintain peace. These actions had impacted negatively on the stability of neighbouring countries, and it was in the interest of the global community that some semblance of civil order be restored.

In both instances, moreover, the respiration of civil order depended on effective liaison, and that could only be accomplished through an international language, and that language is

English.

### **Whose English?**

At a time when the ownership of English is under increasing scrutiny, and when separate “Englishes” are attested in linguistic literature (Kachru 1986; Collins and Blair 1989; McArthur 1998; Bautista and Bolton 2004) it is interesting that the teaching of English for Military Purposes is still rooted in only two, and two contrasting, traditions.

Effectively, EMP is taught in different ways by the Americans and by the British. In Britain, the social class base of the officer corps has always been such that at least partial knowledge of a language other than English could be taken for granted. Traditionally, British officer cadets have come from middle, upper-middle class or aristocratic backgrounds, and have entered the Royal Military Academy at Sandhurst, or the former Royal Naval Academy at Greenwich from fee-paying, private schools.

This has guaranteed at least limited knowledge of a classical language (Latin, sometimes with Greek) and a modern (European) language. Indeed, in the 19<sup>th</sup> Century, the introduction of the teaching of modern languages in the English Public Schools was, in part, driven by the demands of the Sandhurst entry examination.

Secondly, the British army has always valued linguistic ability. Officers serving in India were encouraged to learn Hindustani. Those serving with Gurkha regiments were obliged to learn Gurkhali (Masters; 1956). Swahili was used as a command language in British East Africa (Calvet; 1998). During the Malay Emergency of the 1950’s, bonus payments were authorized for officers who had learnt Malay, and at the same time, the Joint Services School for Linguists trained British national servicemen in Russian listening skills, allowing them to monitor Soviet ground-to-air conversations from the listening post of West Berlin. Even today, British officers on secondment to Arab states receive additional allowances for demonstrating a command of Arabic.

In America, by contrast, the tradition of languages for military purposes only dates back to the Second World War. Crawford (1997) quotes Pete King, a republican Member of the House of Representatives as saying “For the first 180 years of our Nation, we were bound together by a common language. Immigrants came to this country knowing that they had to learn English”

This is historical nonsense. Even excluding indigenous Amerindian languages, the USA has no history of monolingualism. Benjamin Franklin, in a letter dated May 9<sup>th</sup> 1753, objects to the influence of German in Pennsylvania “Few of their children in the Country learn English; they import Books from Germany; and of the six printing houses in the Province, two are entirely German; two half German half English; and two entirely English; They have one German newspaper and one half German” (Cited in Labaree 1961; 494).

The Louisiana Purchase of 1803 added French speakers to the territory controlled by the USA. The annexation of Las Floridas from Spain in 1831 added the first sizeable number of Spanish speakers. Subsequent gains following the Mexican-American war of 1848 added “a vast territory – including California, Arizona, New Mexico and parts of Colorado – and also approved the prior annexation of Texas. All citizens of Mexico residing within this territory automatically became US citizens, as long as they did not leave the territory within one year of the treaty ratification.” (Schmid 2001; 27)

Whether these Spanish speakers became equal citizens of the USA is, however, open to question. Mackey (1983) has pointed out that in the former Mexican territories, boundaries were altered and statehood withheld until a majority of English speakers was assured. California, therefore, became a state in 1850, while Nevada waited until 1864; Colorado until 1876; Utah until 1896 and New Mexico until 1912.

By 1900, moreover, “nativism and anti-foreign political sentiment began to surface” (Kersing, Boulware and Foley 1997; 9). Kloss (1977) estimates that at the beginning of the 20th Century, over 6 percent of American primary education was conducted in German. By the end of the First World War, however, anti-German sentiment had produced a climate in which the teaching of any language other than English was deemed unpatriotic.

The decline of language teaching in the inter-war years (Ricento 1996; 132-137) resulted in so serious a lack of military personnel who could read, write, speak or understand even European languages that in December 1942, the Army Specialized Training Program had to be established. By April 1943 it had enrolled 15,000 trainees, and by August 1943 it was offering 19 different courses, some of them in the so-called “exotic” languages of South-East Asia (Spolsky 1995). These courses were remarkable for both the speed of their establishment and for their intensity, with Davies (1996) citing instances of classes that received 10 hours of instruction a day!

In the Post-War world, it was a simple matter for both the British and American training authorities to reduce their intake of students, and add English to the list of courses offered. Indeed, in this respect, the British were better placed to act, having already offered EMP instruction to the Free Czech, Dutch, French, Norwegian and Polish forces at the Combined Services School (Lowe and Lowe; 1965).

As a result, the Army School of Languages at Beaconsfield and the Lackland Air Force Base at San Antonio, Texas, became centres of military English teaching, attracting broadly similar students, but working from different linguistic traditions.

Beaconsfield offers instruction to students from the British Commonwealth, from Europe, and from Arab states such as Bahrain, Jordan, Oman and Qatar, whose ruling families have links with Sandhurst. Since the collapse of the Soviet Union, moreover, Beaconsfield had liaised with, and supported, the British Council’s Partnership for peace initiatives.

The Lackland Air Force Base also attracts Arab students; primarily from Saudi Arabia, but recently from the UAE and Oman as part of the F-16 programs. Primarily, however, the Lackland Air Force Base’s Defense Language Center has been responsible for teaching the American Language Course to personnel from Puerto Rico, South and Central America, South Korea and Japan.

### **The American Language Course.**

The title of this course is significant, but is easily explained. Portes and Rumbaut (1996; 194) state that “In the United States the acquisition of nonaccented English and the dropping of foreign languages is the litmus test of Americanization.”

The irony here is that Labov (1966), Dillard (1992) and Lippi-Green (1997) convincingly demonstrate that both class and regional accents survive among American speakers of English, and that they are still very useful to those who wish to discriminate. The ALC, however, ignores this data. The ALC is based on the premise that there is “one best way”

(Woods 2004; 28) to teach languages. Doyle (2004; 125) rejects the concept that “one teaching model need be regarded as superior to the other” and that is without considering that the supposed best way is based on the audio-lingual theories that were current in the 1960’s.

There is obviously debate about this. The early enthusiasts for the audio-lingual approach made claims for the efficacy of programmed learning (Bung 1970; 1973; 1974) and language laboratories that have been largely disproved by experience.

On the other hand, within its own parameters, the American Language Course works. It is method driven, based on tried and tested techniques and can be assessed against the benchmark American Language Course Placement test (ALCPT). Broadly speaking, students who attend courses at the Defense Language Institute and who plough through the 36 volumes of the ALC, five hours a day, six days a week, will make gains of some 3 percent to 5 percent on their ALCPT scores for every book they finish.

This is quantifiable data. It satisfies many of the stakeholders in the teaching process, and in the present political situation, where the USA is the world’s only superpower, there is no need for the DLI to change its approach.

### **Partnership for Peace.**

By contrast, the British Council’s Partnership for Peace approach is based on context sensitive ESP. It rejects the idea that there is one best way, and concentrates its attention on the particular needs of the personnel receiving instruction.

More importantly, it takes the instruction to the personnel, and in this respect it is completely different from the ALC. The success rate of the ALC is probably dependent on the instruction being based in Texas. Learning English in an immersion setting partly justifies the amount of time that the ALC devotes to the American Way of Life – a way of life that is based in small town America and which seems to have changed little since the Eisenhower years. Outside America, of course, the inclusion of this type of material justifies Al Ghamdi’s (1989) belief that the ALC is culturally insensitive.

The Partnership for Peace, on the other hand, is prepared to tailor materials to the very different requirements of the Hungarian Air Force, or the Rumanian police and Border Guards. In line with the example of Mellor-Clark and Baker de Altamirano’s (2004) award winning *Campaign; English for the Military* the materials are military from the outset, whereas the ALC remains primarily a General English course, onto which some (and not much) military language has been grafted.

One example will suffice. In the *American Language Course, Book 26*, Pp. 19-20 we are given a dialogue between two, presumably American, officers. In fact, their rank is irrelevant, and they might as well be civilians, as the dialogue is centred on one man’s concern for his sick grandmother. The dialogue has been created for the express purpose of presenting some lexis in context. It is clear that students will later be tested on their knowledge of that lexis, but only in the context modeled in the dialogue.

To prepare for this type of test, therefore, both the author and the syllabus accept that there is “one best way”. They also collude in the fiction that officers in the American forces engage in a stilted “stage speech”, without any of the infelicities that mark authentic dialogue.

Finally, the students are asked to believe that an American military officer, living in an age when hand-held, code scrambled military phones are taken into combat, still

communicates with his family members by using the US Mail.

### **The Impact of IT.**

This segues neatly into my final section, on the impact of IT on EFL/ESP/EMP, and there are two issues here. The first concerns availability, and the second the speed of technological change.

In exactly the same way that the audio-lingual lobby made overstated claims for the magic properties of the language laboratory, so the initial claims for Computer Assisted Language Learning (CALL) often oversold the advantages. Unfortunately, early enthusiasts for CALL forgot that many people in the teaching profession were deeply skeptical of another technology-based approach. (McBeath 1994). Having invested heavily in reel-to-reel language laboratories, only to see them replaced by cassette players and CD players, much of their wariness was understandable.

Secondly, many of the CALL programs that were on offer either did little that could not be done with conventional teaching aids or were at too high a level for general use. The first objection remains a problem with in-house CALL materials. Is a multiple choice grammar test greatly enhanced if programmed firework displays celebrate every correct answer? Many would say not.

In the case of the second objections, concordancing programs of the type espoused by Johns' (Al Sahrigy 1989; Johns 1997) turned out to be most effective with advanced level EAP students. Willis and Willis (1998) used the "real English" approach based on the findings of the Collins COBUILD Project, but they relied on books, not on IT.

Then there was the problem of physically teaching some students how to use the hardware. The computer based TOEFL test actually gives a tutorial before displaying the test items – showing the candidates how to use the mouse, how to scroll up and down the page and how to move from page to page. Even so, the difference in score between those candidates who are computer literate and those who require the tutorial is estimated to be 14 percent (Davidson 2005).

With the passage of time, this problem may begin to disappear. In 2002, the Economist stated that "almost all teachers and pupils have at least one computer at home these days" (October 26th, 2002, P.13). At that time, this was an absurdly optimistic suggestion, even for Great Britain. Only the year before, Carballo-Calero (2001) had stated that for EFL teachers in Spain, regardless of level, Internet access was mostly regarded as a luxury. At the same time, Paran (2002) quoted the case of a student from Venezuela who had no phone line at home and who shared computer access "between thousands of students and staff for an hour or so each day" (P. 7)

More recently, however, The Economist (September 25, 2004, P. 15) reported that the world's largest market for mobile phones was China, and the largest growth area was Africa. There was no suggestion that these were the older, housebrick-sized phones that are illustrated in New Headway Intermediate (Soars and Soars 1996). Second generation mobile phones allow internet access. More importantly, they allow text messaging. The future lies with IT, and access to IT is rapidly spreading downwards through the socioeconomic classes.

This leads us to what Davis (2002/2003; 53) refers to as a "power shift, from the adults to the kids, the true cognoscenti of the new information technologies." In future we will be able to assume that military recruits are IT literate, in the same way that we currently assume that

they are print literate at a basic level. This will not mean that they are experts in the use of IT, but they will be functionally literate – they will be able to do a certain number of tasks, and they will not be technophobic.

This will mean, for example, that they will be able to cope with teaching materials like Stirling's (2004) *English for telephoning*. This is an interactive CD-Rom – note, NOT a book – which has been devised for students of English for Business Purposes (EBP). *English for telephoning* assumes that its target audience has reasonably fast keyboarding skills, with the result that many of the exercises are really rather too fast for those who have not followed a basic Business Communications course.

This is interesting, because as with Emmerson's (2004) *e-mail English*, communication practices in the world of business are actually evolving faster than EBP courses can catch up. In most offices, IT is taken for granted, and used as a matter of routine. In many EBP coursebooks, however, IT is used for illustration, while its impact on writing styles and the development of new genres is ignored (O'Driscoll and Scott-Barrett 1995; Hopkins and Potter 1997; Sweeney 2000; Robbins 2000).

English for Military Purposes cannot afford to wait and then play catch-up. Nor, indeed, are its leading practitioners prepared to do so. Aliksar, Soomere and Woods (2004) report that, as early as 1999, the Partnership for Peace project in Lithuania produced a CD-ROM on Tactical English for Peace Support Operations. They are currently developing another CD-ROM, this time on International Humanitarian Law.

If these materials are effective, then we may be seeing the end of the multi-volume EFL/ESP/EAP/EMP “book based” course. This is a development foreseen by Al Ebraheem (2002/2003; 107) who states “traditional teaching methods will become incompatible with the demands of a knowledge-based economy”. He is not alone in this assessment. Bill Gates has openly stated that in the USA, traditional “high schools are obsolete ... they were designed 50 years ago to meet the needs of another age. Today, even when they work exactly as designed, our high schools cannot teach our kids what they need to know.” (Gates 2005)

In short, for the 21st Century, we must be prepared to teach new things in new ways, and the first steps are already being taken along that path. Computer Adaptive Testing has proved that it can cut down the amount of time required to allocate students to appropriate levels of instruction, as the program reacts to each answer and calibrates the test to the level of ability demonstrated by the candidate.

Under these circumstances, we are not far from the day when we will be able to give the Final examination on the first day of the course, identify students' individual areas of weakness, and tailor materials to their specific needs.

This, then, is the way of the future. Well-motivated, highly trained, professional soldiers have been found to be more effective in battle than mass waves of badly trained conscripts. Creeping artillery barrages are things of the past. IT based surveillance techniques now allow field commanders to pinpoint enemy strong points, and then launch attacks that will have maximum impact.

In the same way, and despite the American Language Course, the use of context specific materials which enjoy high face validity will always be more effective than the one-size-fits-all approach. Armed Forces operate in uniform, but they do not require uniformity in language training.

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**Title**

English Language Teaching in Korea. An Overview.

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**Keywords**

Korean English schools. Korean teachers of English. Native teachers of English. Business English programs

**Abstract:**

One of Korea's leading sectors is the second language industry. It is supported by a vast mount of unqualified foreign English teachers. Their qualifications are either lacking, or where any qualification exists, it is not relevant to the teaching of English. The Korean Immigration statistics show about 11,000 foreign teachers in Korea with visas that permit the teaching of English. Only 3 percent have a teaching qualification, while 2 percent have a qualification that relate to the teaching of English in a foreign language setting. Schools and universities are teaching English with unqualified foreign teachers – convincing the students and parents via false and misleading advertising campaigns that their programs are professional and superior. Korean companies advertise their SLA programs with little regard for the truth. Professional business English courses are all but absent – with few materials and no qualified teachers available to teach such courses. The EIL industry is in need of urgent attention across the Korean peninsula, either by forced legislation, which seems slow in coming, or self regulation which is unlikely in the near future.

**1. Korea: An Overview of English Education**

Korea provides a unique mix of government schools, private schools funded by the government, international schools who are private ventures, and the ubiquitous 'hogwans.' The latter category, run by professional and pseudo businesspersons, is by far the biggest education provider in Korea. Some of the more professional hogwans are the Youngdo company and the GnB corporation. Korean parents spend up to 10 percent of their fixed income in educating their children (Herald: 2005.) However, Korea is a country beset by black money trade, and large amounts of capital from these sources are poured into the educating of children. It is not uncommon for Korean parents to pay up to U.S. \$3,000.00 a month for private tuition for their children. Despite the government's best efforts to curb this black money industry, the industry grows year on year. University students with no

qualification teach Korean school children privately and earn about USD \$500 per student. Foreign teachers who come to Korea who are qualified to teach are prohibited from teaching privately, (though the legality of this law has been called into question) but those that do receive \$50 per hour of tuition.

The industry is one of Korea's largest – anyone can open a 'hogwan' simply by complying with basic regulations. Hiring foreign teachers is unregulated and schools are known to hire non-English speakers from third world countries and pass them off as English teachers. (Robertson, 2005).

There are over 198 Universities in Korea – most have an English language department. Similarly, there are about 190 colleges with an English language component. Korean professors of English teach alongside native English speaking teachers. Recent legislative changes have dictated that private universities and schools must now introduce outsiders onto the school boards. This has been designed to introduce a degree of transparency into the running of these schools. (1)

## **2. The Korean Education system**

Korean children have three levels of schooling prior to going to University. Elementary schools run for 6 years, middle schools for three years, and high school 3 years. To enter university the 12 years of schooling all comes down to a one-day test which has been the subject of great controversy. Korean English teachers have two educational backgrounds. Those in government Middle school and high schools have received a university degree which included one year of contact with native English speakers. Elementary school English teachers are mixture of qualified with an appropriate degree and those who are 'volunteered' by school principals to be English teachers. On the whole, the level of the spoken English is poor (Brett: 2003.)

What is notable is the lack of Business English programs available for Koreans who wish to learn business English. Some hogwans run 'business English' courses, but they are taught by foreigners who are unqualified to teach such programs. There are 198 colleges in Korea (a two year course) where students who failed to reach University level go to study. Some colleges run business courses, of which English is a component. Unfortunately, almost all colleges rely on a native speaker whose only ability is to speak English, to teach these programs. It is common to find 'kyopos,' Koreans born abroad who are bilingual, to teach these classes. Three percent of those surveyed at 120 colleges had any formal business knowledge.

## **3. The Materials and the Suppliers**

Apart from the well-established and reputable publishers, Longman and Cambridge Press, there has been a sudden explosion in English language materials hit the market place across Korea.

One of the most noticeable things about this explosion in teaching and learning materials is the fact that most materials are unedited. The authors, in a rush to see their name in print, publish books that are clearly unfit to be read by students. The mistakes that are contained within the books are obvious and certainly do not help a learner of English. Unfortunately there are no laws that satisfactorily cover the publishing of materials that are not for the purpose they were designed for. It is unlikely this will be rectified for years to come, and one can expect an unabated barrage of materials that should never be published

finding their way o students hands.

#### **4. Unqualified Native Teachers**

This is one of the major problems with English teaching in Korea. Of course, one must realize that Korea accepts any foreigner from an English speaking country who has any degree, who then becomes a teacher of English, or in some universities, earns the title of 'professor.' The examples of unqualified teachers in Korea are legend. There are about 8000 teachers from a mix of courtiers, Canada, U.S.A., Australia, U.K., and New Zealand, who are legally residing in Korea.

Of recent times, Korea has been rocked by a scandal where a Canadian teacher, in collaboration with two Koreans, entered into a criminal enterprise of manufacturing fake university degrees, inviting unqualified Canadians to Korea, and placing them in schools to teach English. (2) It is well known there is a sizable population of Irish ex patriates living and teaching in Korea illegally. With Japan being so close to Korea, an illegal teacher can simply make a day trip to Japan to renew his tourist status for another three months, and thus keep on teaching. The illegality is countenanced and promoted by some Korean school owners, for it is far cheaper to employ an illegal teacher than a registered teacher which then brings in issues of tax, pension payments ad other insurances.

One learned New Zealand academic notes that Korea is the melting pot for unqualified expatriate teacher 'left-overs' from across the globe. During the course of this paper research, the author met a 'teacher' in a University of Education in a southern Korean city who was clearly mentally unbalanced, had his own bizarre ideas of what teaching English meant, and showed a major lack of knowledge of teaching principles. His idea of teaching revolved around teaching his students how to identify native English speaker differences. A discussion with his students indicated they dreaded attending his class and believed he had no idea of how to teach. The school administration was reluctant to dismiss him due to the negative publicity and possible court action they anticipated if they dismissed him. Yet this elderly gentleman was clearly influencing the students, who would go on to become English teachers, in a negative way.

Other teachers in universities who teach English grammar, English literature and second language learning principles have numerous non-relevant teaching qualifications. These range from degrees in journalism, biology, math, politics, etc. Apart from these unqualified persons, there is a growing trend by Korean schools to place 'pseudo' English teachers in the classroom. Russians and Malaysians pretending to be Canadians can be found teaching English (Robertson, 2005). They enter Korea as tourists and are then sponsored by school owners who have these people pass themselves off as native English speakers. Whilst wages for native English teachers are quite low in Korea, (about USD \$2000.00 per month) wages for people from these countries are far less, (\$500.00) hence the school owner saves on employing a true native English speaker. Those holding Ma. TESOL or similar postgraduate qualifications are less than 0.5 percent.

As noted by the Korean Congressional hearings (3) into foreigner economic and legal conditions, one of the major problems facing Korea is the reluctance to pay professional foreign teachers a wage which makes it worthwhile coming to Korea. No matter what one's qualification, the wage paid to foreigners is almost the same. Thus a 23-year university graduate with a major in forestry will earn KRW 2,000,000 (\$2,000.00) a month, whilst a PhD in Education with 10 years experience will earn the same. Occasionally few will

receive higher salaries.

Canadians ex pats make up the greater percentage of teachers in Korea –mostly university graduates straight from school whose only intention is to pay off their university fees, see a foreign country, then leave. Their desire to become professional English teachers is never in question. Less than 15 percent of teachers in Korea stay a second or more years. Statistics show Canadians commit a far greater percentage of crimes than other western nationalities. (4) One reason for employing them is their easily understandable style of speaking. On the other and, teachers from New Zealand have a very poor reputation. Two major firms in Korea note they will not help New Zealanders for they “... demand everything for free, and expect Korean society to give them a free ride. This is not New Zealand.”

#### **Training and Teacher Organizations.**

The only organization foreigners may join for on going education is the KOTESOL group, (Korean Teachers of English to Speakers of Other Languages.) Despite being in existence for over a decade, it has a very small membership base compared to the amount of teachers in Korea. The transient nature of expatriate teachers in Korea, with most only staying one year and not having any desire to make the TESOL profession a future dictates that few will join KOTESOL. An annual conference attracts about 700 persons only. Korean English teachers have more options to join. PKETA and KATE are two major teaching organizations that provide conferences and materials to help train Korean English teachers. Whilst KOTESOL attracts mostly western teachers, a few Koreans do join annually. However it is clear that the Korean / English dichotomy will dictate that there is no mixing of nationalities. Whilst KOTESOL mainly caters to the University teacher, there are few opportunities for the hogwan/ private school teacher to get involved in such organizations which tend to be too theoretical for their needs. The Asian EFL Journal, a free web based journal who also holds conferences annually in Korea is starting to gain momentum as the teachers’ choice of journal, with over 600 guests attending the last International conference which covered all aspects of teaching, including legal issues associated with the teaching profession.

#### **5. The Future**

English education as a business will boom in Korea. Over the next three years it is anticipated another 1000 new private language schools, 10 international schools, and 50 Internet based English programs will begin.<sup>5</sup> One area that will open up is the teaching of Business English. From a business standpoint, this is a growth industry with few barriers to entry.

Government control to date is lacking, and programs initiate to provide higher standard of English training (EPIK) <sup>6</sup>, have been a failure. Trends will dictate the growth patterns. One barrier that will remain is that which makes the establishing or foreign owned international schools a reality. However with the introduction of three Free Economic Zones across Korea, it is anticipated foreign controlled schools will successfully open there.

#### **Notes:**

1. Korean National Congress December 2005. The Private Schools Bill
2. See for example:- [www.efl-lw.org/forums](http://www.efl-lw.org/forums)

TESOL LAW Journal. January 2006 Vol 1.

3. Korean National Congress. June 2005. National Congress. Ju Ho Lee presiding.
4. Ministry of Justice. 2004. Crime statistics. Non Korean. KMJ2004-t6789
5. Korea's Educational Future. White Paper. Ministry of Education
6. EPIK. English Program in Korea. A government sponsored initiative to bring native English speaking teachers into Korean government schools.

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## **Oral Presentation Skills for Prospective Business Executives**

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### **Biography:**

Dr. PATIL is a Professor of English Language in the Centre for Training and Development, School of English Language Education of the *Central Institute of English and Foreign Languages*, Hyderabad, India. He has a Masters, M. Phil., and Ph. D. from University of Poona; a Post-Graduate Certificate in the Teaching of English from *CIEFL*, Hyderabad, India; and a Diploma and Masters in TESOL from Edinburgh, UK. He has lectured/taught in universities, colleges, institutes, language centres, and schools in India, Vietnam, Japan, Singapore, and Thailand. Currently he is working as Senior English Language Adviser in Japan. He has published articles in national and international journals, and has authored and co-authored English language textbooks, teachers' manuals, and resource books that are currently being used in India, Vietnam, and Russia.

**Keywords:** presentations, preparation, delivery, body language, questions and answers

### **Abstract:**

The present paper is a business self-help article aimed at business students preparing their own presentations and at prospective executives wanting to hone their presentation skills. It explains the basics of oral presentation skills in general that apply across domains including that of business management. It discusses the three main stages to an effective oral presentation: the preparation, the delivery, and the questions and answers that follow the delivery. A business presenter, like an academic presenter, for instance, has to go through the same processes of collecting, selecting, organizing, and illustrating her data, and has to keep in mind the purpose of her presentation, and the needs and interests of her audience. So, what distinguishes a business presentation and an academic presentation is the content rather

than the basic principles and procedures. The ingredients of an effective business presentation are more or less the same as those of any other presentation. Hence, though this article aims at helping business students and prospective business executives with oral presentation skills, it can be of help to anyone aspiring to be an effective public speaker.

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“If all my possessions were taken from me with one exception, I would choose to keep the power of speech, for with it I would soon regain all the rest.”

--- DANIEL WEBSTER

### ❖ Introduction

In the world dominated by increasing globalization and fierce competition, business depends on alliances, joint ventures and partnerships. Consequently, business executives need to articulate their ideas effectively and efficiently. Some business managers have brilliant proposals, but they have trouble explaining them to others. As Bradbury (1996: 9) rightly says, “Most business presentations do not achieve their intended purpose. Worse still, they frequently achieve nothing of any value.” This is so, because quite often the presenter does not take pains to go through the rigorous process of preparing the presentation. So, if you want to be a successful business executive and sell your ideas and proposals, you will need to master the art of presentation. A presentation is an opportunity to share ideas with a group of important people. It is during your presentation, and possibly only then, that you have their attention focused. Therefore, you should not take this opportunity lightly. You may never get a second chance. The ability to give a great presentation can be a tremendous career booster, while the inability to do so can keep you on a dead-end path. No wonder, managers, whether experienced or new to the office, would like to hone their presentation skills.

The present paper aims at giving you some vital suggestions on how to make effective presentations. It offers you some basic and useful ideas, tips and strategies, which will help you become more capable, efficient, effective, and valuable assets to your companies. As you know, not everyone is a confident speaker at the beginning. On the one hand, some are scared at the idea of standing in front of a gathering and giving a speech; on the other hand, others are thrilled at the prospects of communicating with a group of listeners. We can place speakers on a cline of confidence with avoiders and seekers at the two extreme ends, and resisters and accepters in-between (Mandel, 1999). If you are an “avoider” or “resister”, this paper will help you become an “accepter”; if you are already an “accepter”, it will take you to the “seeker” stage; and if you are a seeker, it will enable you to make knockout presentations.

The paper is divided into three main sections- literature review, discussion, and conclusion, followed by references. Categorizing the available literature into three groups, the review section briefly summarizes some important books on the topic. The discussion section deals with choice of topic; analysis of audience, occasion and location; collection, selection, and organization of material; preparation of visual aids; rehearsal and delivery; language and body language; and questions and answers. The concluding section briefly captures the highlights of the discussion.

### ❖ Literature Review

There are plenty of books on presentation skills, since public speaking is consistently rated a frightening experience. Someone has very aptly said that the human brain is a wonderful organ, because it starts working as soon as we are born, and stops functioning the moment we get up to deliver a public speech. A hero in battle can be a coward before an audience. This fear of making a public speech is so pervasive that it has produced hundreds of books and articles on the topic. We have (a) literature that deals with the topic in general, and literature that focuses on a specific aspect of the skill, (b) literature that is basically process-oriented, nature-oriented, or impact-oriented, and (c) literature written for general presenters, and literature written especially for business managers. Expectedly, all books on the topic profess that if you gain some good advice about how to make presentations, you can overcome the fear and become more effective.

Carnegie (1976) tells you how to develop poise, gain self-confidence, improve your memory, make your meaning clear, begin and end your talk, interest and charm your audience, improve your diction, and win an argument without hurting people. Carnegie and Carnegie (1977) show you how to win others over to your point of view by maximizing impact as a speaker. Gaulke (1996) offers an inventory of 101 audience-tested anecdotes, experiences, quotes, and insights. Wilder (1994) presents 10 steps to sell your ideas. Dowis (1999) discusses how the impact is lost if your speech is rambling, illogical, and boring. Zelazny (1999) talks about how humour and visuals, among other things, can make your presentation effective. Detz (2000) concentrates on preparation, organization, delivery skills, and the use of technology. Booher (2002) introduces the basics that you must master, along with advanced techniques for fine-tuning your delivery and maximizing your impact on the audience. The author attempts to teach you how to (i) establish rapport with your audience, (ii) speak with passion, persuasion, proper pacing, and punch, (iii) organize your ideas and plan your structure quickly for optimum effect, (iv) match your delivery style to your content, audience, and purpose, (v) add interactivity to your presentation, and (vi) use multimedia to engage your audience. Kaye, et al. (2002) help you take your career to the next level by communicating like a seasoned business leader. Jeary (2003) shares with you eight secrets that you can practise to achieve dramatic results. In his opinion, speaking is more a skill than a talent and requires techniques such as reciprocity, authority, scarcity, and tactics like knowing your audience and overcoming anxiety. Leech (2004) lends you practical advice on communicating information. The book aims to help you make your case using persuasive supporting materials that illuminate and inspire, win over the audience with persuasive evidence, and create a positive impression through voice and language, both verbal and nonverbal. Mortensen (2004) provides strategies for persuading, influencing, and motivating others.

Jacobi and Randall (2000) provide advice on how to develop a dynamic speaking style to project power, confidence and persuasiveness, because your success depends on the confidence and conviction you project. They guarantee that your *voice* can make the difference between prosperity and failure. Grant-Williams (2002) elaborates on how to employ positive *vocal techniques* and become a more confident presenter. Finlayson (2001) rivets attention on *questioning techniques*. He argues that it is not enough to just ask questions; it is important to know which questions to ask and how to ask them. When you

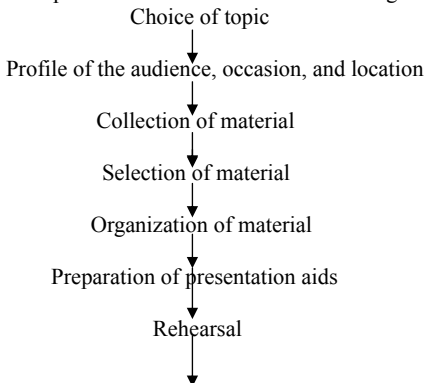
master the art of asking smart, meaningful questions, you not only make an excellent impression, but also improve your performance. Williams (2004) explains the significance of strong, *clear feedback*, which is a critical nutrient for the presenter. Wempen (2004) and Atkinson (2005) discuss powerful, practical, and easy to apply *techniques for PowerPoint*.

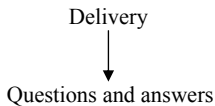
Looked at from another perspective, the literature on presentation skills has three broad focus points: the process, the nature, and the impact. For example, Bienvenu (1999) and Diresta (1998) tell you how to create and deliver your message with power and punch. Peoples (1992) and Leech (2004) have proven practical advice on how to communicate the essential information. Kalish (1997), Diresta (1998) and Tisdale (2005) have the recipe for “terrific”, “knockout”, and “effective” presentations respectively. However, whether the book is process-oriented or nature-oriented, the ultimate objective is to help the presenter communicate effectively with the audience. That is why Stevenson (2003) and Atkinson (2005) aim at capturing the audience attention, inspiring their action, and producing results. Sampson (2003) advocates the use of creative ideas to influence the listeners. Pfarrer (1998) and McCarthy and Hatcher (2002a, 2002b) view presentations as the art of persuasion. In Weissman’s (2003) opinion, the goal of a presentation is to connect with the audience and win them.

Of all the books and articles mentioned above, only some (Gaulke, 1996, Witherspoon and White, 1997; Pfarrer, 1998; Rotondo and Rotondo, 2001; Sampson, 2003; Stevenson, 2003; and Tisdale, 2005) have been written with business people in view, and Villata’s (2003) has been written with medical presenters in mind.

### ❖ Discussion

Now let us get down to the basics of presentation skills. First of all, you need to think about the topic, the audience, the occasion, the venue. Then, you have to collect, select, and organize your material. After that, you need to prepare aids, and rehearse your speech. Thereafter, you will present your ideas using effective language and body language. Finally, you will take questions from the audience and answer them. These steps to a presentation can be represented in the form of the following flowchart:





Let me talk about these steps one by one.

➤ **Know your topic.**

“When choosing among possible topics, you should consider three questions- (1) Is the topic appropriate for your audience? (2) Is it appropriate for you? (3) Is it appropriate for the speech occasion?” (Hypes and Weaver, 2004: 291). Topic is one of the two main aspects of a presentation: content and code, matter and manner, subject and style. Code, manner, and style refer to language and body language. Content, matter, and subject refer to ideas, thoughts, opinions, and information. Admittedly, the manner of our speaking is as important as the matter, because more people have ears to be tickled than understanding to judge. Now, you must be wondering if these two aspects are independent of each other. What do you think? Are they interrelated? Are they separable? If you ask me, I will say that they are inseparable. They are like a dancer and her dance performance, as it were. When we witness a perfect dance, can we divorce the dance from the dancer? The answer is an emphatic “No”. Then, why do we talk about these two aspects as if they were separate or separable? Obviously, we do so because it is convenient and useful.

In other words, we can say that topic is the soul of a presentation. So, we cannot think of a presentation without a topic. In a good presentation we find a perfect fusion of matter and manner, subject and style. When a presenter fails to integrate the two, his performance falls short of being effective. Some speakers have brilliant ideas, but they are poor at presenting them. On the contrary, some presenters are amazingly magical in their expression, though they do not have world-shaking or cutting-edge ideas. In-between, we have people who have something to say but can't, and people who have nothing to say but keep on saying it.

The important point here is that topic is the backbone of a talk. A talk without a topic is like a flight without a navigator. Now, a crucial question is who chooses the topic? Well, there are two possibilities. The presenter can choose the topic; alternatively, the organizer may suggest a topic. So, when you are invited to speak, the first question you would like to ask is: What is the topic? Are you going to talk about business environment in India? Do you want to talk about the advantages of outsourcing work to India? Do your audience want you to tell them about the pitfalls of doing business in China or do they want some advice on doing business in Japan? Does your firm want you to speak about personnel motivation?

Theoretically, you are capable of handling any business related topic under the sun. However, the fact remains that different people are good at attacking different types of themes. By the same token, some people are good at statistical presentations, some are good at analytical presentations, and some are good at powerful persuasive speeches. People have their preferences, strengths and weaknesses. So, the individual speaker is the best person to

know her own interest areas. She may be quite comfortable with certain topics and talk about them with facility. On the contrary, she may not feel at ease with some other subjects. If she thinks she cannot handle a particular area, it would be a wise gesture to tell the organizer frankly. If she does not do that, then she may end up making a fool of herself. As the old saying goes, nobody is perfect. An encyclopedia is the result of team effort, not the job of a single individual. William Hazlitt, an English essayist, wrote a wonderful essay titled 'Ignorance of the Learned' the moral of which is that all of us are ignorant in different ways. Wise people know what their strengths and weaknesses are and make their choices accordingly. If the presenter is not pragmatic enough to admit her ignorance and attempts to be a jack-of-all-trades, then she will lodge herself in deep waters. That was what happened to an anecdotal business executive who agreed to make a speech about 'Twenty-Point Program' launched by the government of India as a poverty eradication scheme. He did not know what the contents of the program were; neither did he attempt to find out. Consequently, this was the 'thesis' of his speech:

"What's a twenty-point program? Well, it's a program with twenty points."

➤ **Know your audience.**



Well, you know your topic, but do you know anything about the people you are going to address? Would it be an idea to gather some information about them? In my view, it is a good idea to have a comprehensive audience profile: their age group, gender split, education level, job type, experience, domicile, religious and political affiliation, their role models, their personality types, and of course, their expectations. I know this is a tall order! However, some information about your audience is necessary. In fact, a complete profile of the audience would be an ideal thing. Let me tell you that it is not difficult to produce an audience profile. The organizer of the presentation can arrange it for you.

Audience profile has many advantages. It can help you make your choices in terms of what to say and how to say it. Let me explain this with a couple of examples. Let us think of a situation where you are addressing semi-literate, rural audience, and your topic is *Using the Internet to Export Farm Produce*. Would it be a good idea to use technical words, formulae and jargon? Needless to say, it would not be a wise thing to do so. Instead, you would prefer everyday language and examples. On the contrary, when you are addressing business leaders, professors and researchers, you might like to use specialized terms and expressions. I am sure you would like to use simple, informal language for uneducated, rural, and inexperienced people, and technical, and formal language and illustrations for people who are studying, researching, and working in the area of E-business. The choice of your

language and illustrations will be determined by the educational level, and job profile of your listeners.

You must be wondering why you need to know about the gender and religious affiliation of the audience? Let me spend a moment on this issue. Let us think of a context where you are speaking about *McDonalds in India* and you do not know the religious affiliation of the people you are addressing. You are not aware that your audiences come from various religious backgrounds, that they comprise Hindus, Muslims, Christians, Buddhist, and so on. At some point during your presentation you remark: "Well, friends try beef and pork hamburgers. They are nutritious as well as delicious!" You will be unwittingly offending the religious sentiments of those listeners who think that eating beef and pork is an abominable dietary habit. That is why it is important to know whether you are addressing Christians, Hindus, Muslims, or Buddhists, or a composite audience. Furthermore, you should avoid sexist expressions such as *chairman, mankind*, etc., which may provoke feminists. You will have noticed that in my article I have chosen to refer to the presenter sometimes as 'she' and sometimes as 'he'.

Additionally, you need to know the role models of your audience. As you know, Ho Chi Minh, Mahatma Gandhi, Nelson Mandela, and His Holiness the Dalai Lama are iconic personalities symbolizing national aspirations of Vietnamese, Indian, South African, and Tibetan people respectively. You may inadvertently say something unacceptable about these great personalities, which may offend your audience. Moreover, it is advisable to know whether you are addressing new audience or old audience. If you do not, then you might lodge yourself in a difficult situation like the following speaker:

Once a popular speaker flew to Ho Chi Minh City to give a speech to a large gathering. Her topic was 'Foreign Investment in Vietnam'. She had given this talk so many times that she knew it by heart. When the driver picked her up at the airport, she asked him: 'Who are my audience this time?'

"The same people you spoke to last year when you talked about Foreign Investment in Vietnam," the driver said.

If you do not know anything about your audience, then it will be quite difficult for you to empathize with them and pitch your talk at the right level. Consequently, your presentation will most likely fail. More importantly, in the absence of audience profile, you may deliver a monotonous and boring speech. I remember a politician who was once invited to speak on 'Children's Day'. He did not take into consideration the level of his audience and consequently, he said, "Well, folks, eradication of desires, self-abnegation, and a continual pursuit of spiritual values alone can lead you to the salvation of the soul!" Understandably, the poor kids started looking at each other with confused looks on their innocent faces. Incidentally, this reminds me of a cryptic conversation between a guest and a dignitary. The former asked the latter if she had ever had her ears *pierced*. The dignitary, capitalizing on the dual meaning of the word 'bore', murmured, "No, but I have often had them *bored*."

The preceding discussion goes to prove the fact that audience is central to communication as all communication is targeted at them. We cannot afford to ignore our audience or be indifferent to them or undermine their role. A presenter is a presenter by virtue of their

existence and their attendance. In the absence of the listener, the speaker loses her identity as a presenter. Here, I would like to record that the nature of the audience has a direct bearing on the choice of the topic. Hence, the best topic is the one that suits your audience, you, the type of occasion, and the length of time you have. Just as you can enjoy talking on a subject you know well, or you are interested in, your audience can enjoy listening to a talk that attacks a topic relevant to their needs and interests. Your audience will listen willingly if your topic is of concern to them. Therefore, it is necessary to perceive their individual interests and their interest as a group.

Equally importantly, you need to have a clear understanding of your objectives. You can grab the attention of your audience and sustain their interest only if your objectives are clear. One simple way to understand the purpose of your presentation is to answer the questions: Why does your audience want to hear you? Why do you want to address them? You must define your general and specific purpose: to interest or amuse the audience, to inform or teach them, to stimulate or impress, to convince or persuade. When you know your audience and your objectives, you can use a variety of techniques to maintain audience attention: inviting them to participate, exercising their imagination, arousing their curiosity, role playing, stating striking facts and statistics, and telling a story (Pearson and Nelson, 1999: 259-60).

➤ **Understand the occasion.**

It is common knowledge that some occasions are informal and some occasions are formal. For example, a friendly gathering is an informal occasion and a business meeting or conference is a formal occasion. The topic, the style, and the occasion should match with one another. The speaker who loses sight of this common sense principle projects a poor image of herself. The audience will tend to conclude that the speaker is so much engrossed in herself that she forgets the demands of the occasion. Her aim is to express something she very much wants to, but has had no occasion to express. In all probability, such a speaker would turn out to be a big bore. When you know the nature and type of the occasion, it is easier for you to choose a topic that suits it. For example, when the occasion is 'Children's Day' you know that the audience will comprise children. Naturally, you must select a topic that appeals to children and is not beyond their reach. Obviously, abstract, philosophical ideas will be beyond children's comprehension as their conceptual and experiential knowledge is very limited. So, if you talk about pursuit of spiritual values, self-abnegation and salvation, children will get confused, and will not feel interested in the talk. Instead, if you appeal to their imagination and curiosity, they will feel absorbed. That is why cartoon films, fairy tales, and fables fascinate children. To cut the long story short, if you want to succeed as a speaker, you should understand the dictates of the occasion.

➤ **Check the location.**

The success of your presentation will depend on several factors. One, you need to understand your audience. Two, you need to know the nature and type of the occasion. Three, you should familiarize yourself with the location. If possible, you should visit the place a day or two before your presentation. You should see whether things are in working condition. When you visit the location, you can decide where to keep the lectern, the projector, video player, etc. You can decide where you will stand, where you will keep

unused transparencies, and where you will keep the used ones. You can check the furniture, switchboards, fans, and other gadgets, and arrange an appropriate and convenient seating arrangement: oval, circular, etc. You can also check the acoustic conditions of the hall. This is important, because in some places the speaker's voice echoes. The hall may not be sound proof or may be on a busy and noisy street. In such circumstances, you will find it difficult to concentrate on your presentation. The audience will find it difficult too. At times, the hall may be too big for a small number of listeners; conversely, it may be too small for a big audience. In the former situation, people will get a feeling of emptiness; in the latter case, they will feel suffocated. This will adversely affect your presentation. You know you have prepared thoroughly and your material is very useful, relevant, informative and interesting; your tone is lively, interested, and enthusiastic; you sound very positive, friendly and straightforward; and you have a great sense of humor. All these qualities are, no doubt, important, but if the hall is too small or too big; the acoustic conditions are poor, the furniture is uncomfortable, the gadgets are old and decrepit, and the venue is noisy, then it is hard for a talk to succeed.

➤ **Collect your ideas.**

Well, you have familiarized yourself with the audience, occasion and location. Now, it is time for you to gather material. Where do you get your material? Well, the first great source of material is *your own head*. You can brainstorm on the topic and jot down your own ideas. I am sure you have read something about the topic or heard some speeches or have thought about the topic. You can recollect your ideas, thoughts, experiences, and observations and write them down.

When you have brainstormed and listed your own ideas, you can look for more ideas in *newspapers, magazines, books, and encyclopedias*. Fortunately, there is no famine of ideas; they are floating around you all the time. You need to catch them and internalize them, personalize them, and support them with your own experiences and observations. Furthermore, you may *interview* some public speaker, specialist or expert, or *discuss* your subject with your friends, colleagues and family. Yet another source is the *audio-visual library*. You can have a look at its catalogues to identify relevant cassettes/DVDs, view them and select portions, which you think will add spice to your presentation. The audio-visual impact will enliven your speech.

You must be wondering why I have not mentioned the Internet. Certainly, the Internet is a rich source of information. You can get information about nearly any topic—advertising, managerial styles, personnel management, inflation, recession, equity markets, etc. And it is not at all difficult to access the Internet. Just get some website addresses, type them in the search box and hit the Enter key, and the whole magic box will display a wealth of data. It is an 'open sesame' to a flood of information.

➤ **Separate the wheat from the chaff.**

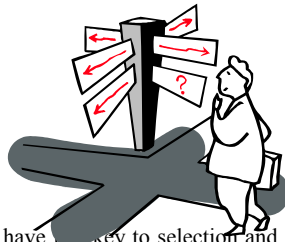
The presenter's time is limited; so is her listeners' time. Once when a popular Korean speaker stood up to make her speech, she asked the chairperson: "How long shall I speak?" The chairperson said: "Take as long as you like — we will leave after thirty minutes." The presenter has a responsibility towards her audience. Cordell (2005), while talking about the

presenter's responsibility, says, "Consider a 1-hour presentation attended by 20 people. The cost is 20 human hours times the hourly value of each person's time. That's a lot of time and cost, not to mention the effort required for each audience member to travel to the presentation and break up their day to do so. To justify this cost, the presenter must be well prepared and the information thoughtfully presented and pertinent to the listeners' needs." This implies that you cannot present the bagfuls of material you have collected. The simplest guideline here is: Don't be over-ambitious; be pragmatic. It is a good idea to know your constraints. Let me suggest an easy procedure: List your points; cut your points to as few as possible; forget some points — forgetting is a blessing in disguise! Combine minor points under the major ones. Three or four points are easy to remember. One should not bite more than one can chew. One should not spread it too thin either. Let's remember what Plutarch said: "I do not think him a good shoemaker, who makes a great shoe for a small foot."

All this requires you to select your material keeping in mind (i) the time limit, (ii) audience interest, and (iii) purpose of the talk. As a result, you have to separate the wheat from the chaff, the essential from the inessential. You have to sift through your material to distinguish important information from disposable information. I usually use a three-circle model to arrange my ideas — the inner circle, the outer circle, and the expanding circle. Accordingly, I put my ideas into three groups: core ideas, secondary ideas, and disposable ideas. Since a presenter does not have unlimited time, she needs to talk about the core ideas from the inner circle first. In case she gets extra time, you can discuss ideas from the outer and expanding circles. If you have only a few core ideas and do not have extra ones, you may find yourself in a difficult situation. For example, if you dry up in the middle of your talk or exhaust all your material in half the allotted time, it will be embarrassing for you. Therefore, it is a good idea to have some extra material ready on hand. It is also a good idea to have lots of telling examples, because examples speak louder than statements. It is common observation that a talk without specific examples is ineffective.

In brief, you should choose only a few points to present and keep some points in reserve. If you include too many ideas in your presentation, then your talk will be too dense and you will have to hurry up to cover all these points. This will result in unnatural speed of delivery of an unedited speech. As a result, your audience will lose patience and their attention will fade away, and they may even leave your presentation in the middle. Therefore, it is a wise thing to find out how much time you have and how much you can present during that time.

➤ **Organize your ideas.**



Knowing how much time you have is the key to selection and organization of your material, which in turn is a key to success. Pearson and Nelson (1999, p. 258) rightly say, "Organizing

your speech is one of the most important skills you can learn. First of all, organization is often the key to understanding. The audience is more likely to understand your message if it is organized than if it is not. Second, you are more likely to include the best information, arguments, and evidence if your speech is organized than if it is not. Organizing a speech forces you to select, to prioritize, and to choose the best of the available information. Third, the audience is more likely to evaluate you positively if you sound organized. A well-organized presentation has three main sections: a beginning, middle, and an ending. "The introduction must grab the audience attention. It should clearly state what the speaker is about to present and how it will be presented.... The body of the presentation must develop ideas clearly and logically, and connect them by means of appropriate transition.... Finally, the conclusion should be anticipated, never abrupt" (Villata, 2003).

The introductory part of your speech is like the take-off and ascent of a flight. The main body resembles the journey between ascent and descent. The concluding part is similar to the descent and landing of a flight. As you know, the take-off and landing are very crucial stages. Nine of ten aviation accidents take place during these stages. Therefore, the captain has to be very careful. Your presentation is like a flight and you are like the captain of a flight. The introduction to your talk is like the ascent and the conclusion of your speech is like the descent of a flight. You must be extra careful when your speech is taking off and ascending, and equally watchful when it is descending and landing. The first and last impressions are lasting impressions.

Thus, the introductory part of your presentation catches audience attention and provides signposting from which they can extrapolate the direction of the presentation. The audience gets a clear map of how they will travel and what they will encounter on the way. So, how do you go about introducing your speech? Well, several strategies are available. You can start with a quotation, saying, proverb, epigram, joke, anecdote, aphorism, story, folktale, or a dramatic and controversial statement. You can open the talk in any way you like as long as you succeed in arresting the attention of the audience. Let us say, you are talking about the role of women in business and industry, you might start with the following words: (i) "Well, friends, I believe that God cannot be present everywhere. So, he created woman"; or (ii) "Well, friends, let me tell you that I spent the best period of my life in the arms of another man's wife- I mean, my mother!" Or, let us say, being the CEO of a famous car company, you are speaking about road accidents resulting from the poor quality of cars, you might start like this: "Dear customers, life is short. Let's not make it shorter! Use our cars. Your life is safe in our hands when our steering wheel is in your hands."

Having introduced the topic in an interesting way, you then proceed to develop the main body of your presentation. An effective body of a speech can be informative, persuasive, or amusing. An informative speech adds to the listener's knowledge; a persuasive talk presents a problem and proposes solutions. The latter type reminds me of a personal experience. One day I was trying to get a cow into the barn. I pushed the animal with all my might and I even whipped her a little. I had a hard time subduing her. When my father saw my plight, he used his wisdom and experience and held a bunch of lush green grass in front of the cow and slowly walked into the barn, the cow following him meekly. My father looked at the problem from the cow's viewpoint and succeeded in making his idea very attractive to the

cow. Likewise, an effective presenter exploits the viewpoint of her audience and gently persuades them into docilely accepting her views. Depending on the type of presentation, you can develop your speech using various strategies: you can advance your arguments, supply the data, and provide examples. You can quote experts to support your argument, because authority, testimony, quotation, and evidence help you sell your ideas effectively. Moreover, it is a good strategy to support every idea with an illustration that is germane to the purpose of the talk. Being specific, definite and clear, a good illustration expresses the meaning forcefully.

Now let me have a word about the concluding part of a presentation. What do you do to end your talk effectively? You arranged your ideas in a series, and climbed to a ‘crescendo’ step by step to gradually reach the climax. But this is just one way to reach the conclusion. An alternative way is the reverse of crescendo. In music parlance we call it ‘diminuendo’. In the former case, the tempo rises and reaches the climax; in the latter, the tempo diminishes and finally dissolves. Different speakers choose different styles. Whether you select this style or that, you should plan your conclusion in advance, because if you think of it at the last moment, then you might end up projecting a poor image of yourself. Incidentally, once I witnessed a very embarrassing situation where speaker asked a guest sitting beside him how to conclude his speech. Expectedly, the audience giggled.

The foregoing discussion attests to the several advantages the structure of a presentation gives us. First, it draws audience attention and brings things into focus. Secondly, it holds people’s interest. Experience tells us that it is difficult to hold human attention and interest for a long time, but structure helps us do that. A speech without organized ideas is boring and may be good for patients of insomnia or sleeplessness. Thirdly, a methodically presented speech helps people understand the message and perceive the links easily. Fourthly, it makes the message stay in public memory for a longer time. In brief, an organized presentation grabs and sustains audience attention, and achieves a lasting impact.

➤ **Prepare your presentation aids.**

One may be a very confident, fluent and eloquent speaker, but one cannot make a point as effectively as a picture or a diagram does. A visual conveys an idea faster and better. There are several visual aids you can use: pictographs, line graphs, photographs, diagrams, bar graphs, charts, blackboard, flannel board, transparencies, motion pictures, and so on. Some presentation aids are readily available for you to buy them. If suitable aids are not available, then you can use your creativity and imagination to produce those that suit your topic, audience, occasion, and purpose.

The usefulness of presentation aids can hardly be overemphasized. They have several advantages. They arrest audience attention, rekindle, stimulate, and sustain their interest. When the listener looks at the visual, she understands the point easily and effortlessly. A visual sticks the idea deep in the listener’s mind and helps her remember it for a long time. A picture is more revealing than a hundred words, because it communicates an idea more clearly, quickly, and vividly than most other devices. It gives a presentation a strong punch and presents the idea as a whole at one time.

Let me add a word of caution here. Presentation aids used in a wrong manner or used carelessly will create a poor impression. Therefore, it is important to use them properly, judiciously, wisely and sparingly. Excessive use of visuals can have an adverse impact on the audience. So, you need to handle PowerPoint visuals with great care. First, while using them, you should look at the audience and speak to them, and should not talk to the visual or the projection on the screen. Secondly, you should number the visuals so that they do not get mixed up. Their sequence should go hand in hand with respective ideas you are presenting. Thirdly, in case you are using transparencies, you should be careful while displaying them on the projector so that you do not place them upside-down or they do not drop on the floor.

In brief, presentation aids should be prepared carefully to match the available equipment, should not be too many or too complicated, and should be used skillfully to reinforce the message.

➤ **Rehearse your presentation.**

Right! Now you are ready for the big moment. You chose the topic; prepared profiles of your audience, occasion, and location; you collected, selected and organized your material; and you created presentation aids. Now, you must ask yourself: “Would it be a wise thing to go to the podium and make the presentation? Shall I try it at home first?” If you are an experienced speaker, you can skip the rehearsal stage, but if you are a beginner or you are not fully confident, it is a good idea to rehearse your talk before you mount the platform.

At this point two questions are likely to surface to your mind. One, why should you rehearse? Two, where do you rehearse? Let me answer your second question first. Well, you can rehearse in front of a mirror or request some of your relatives, friends or colleagues to attend your presentation and be ruthlessly critical of the content and the manner. You can request a speechmaker, and a presenter to attend your talk. Or, you can do it by yourself: record your speech and play it again. Now, let me answer your first question. The advantages are obvious: practice makes perfect. Rehearsal improves performance. Your rehearsal audience can give you feedback on your pronunciation, vocabulary, grammar, and organization of ideas, body language, and time management. They can comment on the strengths and the weaknesses of your presentation. They can tell you which part of your speech was effective and which ineffective. In the light of their suggestions, you can edit your speech, refine your content and language, and get rid of faults in the structure, errors of logic, poor usage, irrelevant examples and quotations, and so on. Furthermore, rehearsal will help you check your timing and reduce your nervousness. Thus rehearsal helps you to improve your presentation skills through peer rating, self-rating and reflection (Yamashiro and Johnson, 1997).

➤ **Deliver your presentation.**



Finally, the big moment has come! You find yourself standing on the dais. You have put in great effort; you have the cue cards ready to boost your confidence. You know you will not falter. The prompt cards will enable you to speak more freely, almost conversationally; they will also free you to look at your listeners. Your presentation aids are ready. The audience waits for the take-off. Luckily, your take-off succeeds in getting their attention; but you must use all your resources to maintain a grip on the audience. The two major resources that you have are *language* and *body language*.

Talking about these two resources, Tubbs and Moss (2002: 315) observe, “For years two guidelines for effective delivery have been naturalness and poise. A speaker’s delivery should not draw attention from the content of the message as it might, if it were overly dramatic or reflected lack of confidence...Good delivery involves much more than mere fluency in speaking. It includes the effective use of many visual and vocal cues: eye contact, hand gestures, posture, and general physical appearance as well as vocal quality, pitch, volume and rate of speech.”

First, let me talk about language. I cannot help remembering what Ben Johnson said about language: Language most shows a man: speak that I may see you. It springs out of the most retired, and inmost parts of us, and is the image of the parent of it, the mind. No glass renders a man’s form, or likeness as true as his speech. Obviously, language plays a very crucial role in a presentation. Although the level of formality of the language will vary from occasion to occasion and topic to topic (for example, the formal expression ‘bovine spongiform encephalopathy’ and the informal term ‘mad cow disease’), a good public speaker usually employs the familiar language of person-to-person conversation. She uses positive and polite language to bridge or at least reduce the distance between her and her listeners. The use of “I,” “my,” and “me” has distancing effect; on the contrary, “we,” “our” and “us” have a zoom in effect. Thus her talk is personal and familiar like a chat. Everyone understands her meaning, because every sentence is plain and simple. She practices what Disraeli said: I make it a rule to believe only what I understand. I think this is a great idea! Your audience will not believe what they do not understand. Therefore, it is necessary to use short, simple words, and familiar examples. A good speaker uses technical language only when it is unavoidable. She uses words that say exactly what she means and uses images to sharpen her points. If her subject is abstract and complicated, she tries to present it in concrete and simple language. Occasionally, she can use sensual images and figures of speech. Her main guiding principle, however, is what Emerson said: “Speech is power to translate a truth into a language perfectly intelligible to the person to whom you speak”.

How about tone of voice? Is it significant? Does it play an important role in communication? Yes, it certainly does. The following anecdote is evidence of its impact. G.K Chesterton, the British writer and critic, tried an experiment to test the effect of tone of voice on the listener. One day he went to a fish market to buy some fish. On that occasion something very revealing transpired between him and the woman waiting on him. To the woman waiting on him, Chesterton said in a low, endearing voice:

“You’re a noun, a verb, and a preposition.”

The woman blushed, because she felt flattered that such a cultured person saw these qualities in her.

After buying the fish, Chesterton said in a rough, higher voice:

“You’re an adjective, an adverb, and a conjunction.”

The woman thought that Chesterton had said something bad of her and so gave him a resounding slap.

In short, your words, accent, tone of voice communicate meanings and messages, feelings and attitudes. Your language can make people feel flattered or can infuriate them; it can interest them or bore them. That is why you need to be very careful while choosing words and tones.

However, language is just one aspect of communication; body language is another facet, which is equally important, or perhaps more important. Let us take the case of eye contact, for instance. Our eyes send messages and receive impressions from another person’s eyes. What can we see in our audience’s eyes? Well, we can read a whole lot of messages — interest, willingness, comprehension, satisfaction; incomprehension, boredom, irritation, etc., because all our souls are written in our eyes. The interchange of looks is the first step toward rapport. If you have to read your speech, your eyes are riveted on the text and you cannot look at the audience. Eye contact is like a lubricant; it reduces friction, acts as an adhesive and binds people together. Just as an accelerator increases the speed of your vehicle, your eye contact speeds up your listener’s comprehension. When you look them in the face, they understand faster and better.

Gestures and facial expressions greatly contribute to the effectiveness of your speech. Nobody would like to listen to a speaker with a stone face, because a speaker is not a statue. Gestures and expressions help you illustrate your ideas, express your attitudes, and regulate your interaction with your audience. Moreover, gestures can emphasize, highlight, complement or contradict the verbal message.



What a relief! You have finished your speech and you might think that your job as a presenter is over. But wait a minute. Your audience has several questions, which you need to answer. He has a question here and she has a question there! Your presentation will be complete when you have answered their questions. Incidentally, not every question will be sensible. Only one in five may be an intelligent question. However, you cannot afford to lose your patience; you have to keep calm. Poise is very important, because poise is the ability to continue speaking fluently while the other fellow is picking up the cheque.

Just as there are several types of questions (factual, probing, etc.), there are different motives behind questions. As they say, “Judge a man by his questions rather than by his answers”. Someone raises a question because she wants people to notice her presence. This man here

has a different perspective on the issue under discussion and so voices a question. That woman over there would like you to answer her question, because she has not understood a particular point you made. The gentleman sitting in the first row wants more clarification. That gentleman in the corner wants you to repeat a large chunk of your talk, because it was beyond his comprehension. In such a situation you should not say what a popular orator once said to one of his listeners. One day, one of his listeners said to him:

“Mr. Speaker, it was a very good speech, but certain points were beyond my reach.”

The speaker looked up and said:

“I’m sorry for you. I once had a dog that had the same trouble with fleas.” (Reader’s Digest, 1972, p. 506).

Asking intelligent and probing questions is an art; answering them convincingly is an art too. The first thing you should do is to welcome the question. If necessary, compliment the questioner on her question. First, say that it is a probing, intelligent, good question and then answer it. If you do not know the answer, tell the questioner you do not have the answer and apologize to her for not being able to provide a satisfactory explanation. There are several ways to assure the questioner that you want to help her. You may appeal to the audience to try to answer her question. I am sure they will not mind helping out at all. In fact, they will be glad to help out. In case they do not have the answer, you may leave your email address with the questioner and request her to email the question to you. Alternatively, you can direct her to a particular article in a specific journal where she may find an answer to her question.

There are several ways to handle questions. Things will be easier if you are a ready-witted presenter. That reminds me of an anecdote about Einstein. As you know, Einstein used to be invited all over to talk about his theory of relativity. Because of extensive traveling and busy schedule he sometimes felt terribly exhausted. One day, he was so fatigued that he was in no mood to deliver a talk. Seeing his plight, his chauffeur, Hans, asked him to relax and volunteered to deliver a speech on relativity. When the surprised Einstein asked him how he would manage to talk on such a complex scientific topic, he said that he would be able to speak on the topic as he had heard Einstein so many times that he had the theory by heart.

Done! Einstein sat among the audience while Hans roared on the stage and was given a thunderous applause after his speech. But he saw a problem brewing when a naughty professor shot a knotty question at him. Hans could not have answered it as he had just parroted the theory of relativity without understanding even an iota of it. However, he did not lose his poise. He said to the professor, “Professor, that’s a very simple question. My chauffeur, who is among the audience, will answer it.” Luckily for Hans no one knew that the man sitting in the audience was Einstein who then got up and thundered a brilliant answer to rescue Hans! This could happen because Hans was ready-witted.

#### ❖ Conclusion

Now, let me sum it up. I have discussed the various stages to presentation. First, you need to select a *subject* of the presentation: it is the anchor of your presentation. Secondly, you need to be clear about the *purpose* of your speech: to give a general introduction to lay people, to describe findings to experts, or to engage in a dialogue with the audience. Thirdly, you need

to familiarize yourself with the *location, occasion, and audience*. The more you know about them, the better. Is the presentation hall damp, smelly, noisy, air-conditioned? Is necessary furniture in place: a platform, podium, etc.? Is the public address system working? How about distractions and interruptions? Is it a quiet place or a noisy one? What kind of occasion is it? Is it a formal, informal, or casual occasion? You must find out answers to these questions. You need to familiarize yourself with your audience too, because your presentation is a joint venture, a common pursuit, and a co-operative endeavor between you and your audience.

Then, you enter the second major phase of preparation. You pool your *ideas*, views, statistics, etc. You need some incubation period to internalize the information. During this stage, you can test the validity of your ideas, think about them, and look for *illustrations* to support those ideas. You must take care to keep your material flexible; for example, you can use old material from earlier presentations, but you must remember that earlier occasion, audience, and objectives were different. This awareness will enable you to adapt your material to suit the new occasion and audience. Having collected your material, you need to *structure* your presentation in a manner that best suits your purpose: logically, argumentatively, or chronologically. You may present a case when your aim is to convince the audience of your opinion. Alternatively, you can present your ideas in a narrative way, in the form of a story. But, your story must be relevant to your objectives. Furthermore, it should form a part of an overall structure, make a particular point, and must be well told. Then, you have to *introduce, develop, and conclude* your talk. The introduction should be dramatic enough to whet audience appetite, arrest their attention and focus their thinking. The body of your presentation is the longest part and so you must use your resources such as humour to maintain audience interest. Finally, the ending should contain the THESIS (THESIS being an acronym for **THE** Speech In a Sentence) of your speech.

Wait a moment. Your preparation is not yet complete. You will require other resources such as graphics to enhance the impact of the structure of your presentation. It is common knowledge that presentation aids add spice to a presentation. You can use them to demonstrate a process or an event, to add a professional touch to your talk and to make it memorable. However, you should not show endless sequences of visuals. Moreover, you need to handle your presentation aids carefully. A video in a wrong order, or slides and transparencies in a wrong sequence will create an undesirable impression. Furthermore, you should use audio-visual aids as supporting materials; too many of them may take over your presentation. More importantly, you should check whether your presentation aids jell with your overall perspective, because it is occasionally the case that they present a differing emphasis.

By now your material preparation is over, but you need to *rehearse* the presentation in order to be mentally ready for the job. A main advantage of rehearsal is that you can overcome nervousness. You may be nervous, because (i) it is your first performance, (ii) you think you will not come up to audience expectation, (iii) you fear you will dry up in the middle and make a fool of yourself, or (iv) you are afraid you will not find the right word, remember a point, an example or a story.

Now you can claim that you are ready to for the task. The rehearsal is over and you can *present* your ideas. While doing this, you establish rapport and camaraderie with your audience, entertain them, and make them feel comfortable. You should see to it that you do not undermine your audience or threaten their image. You need to create a co-operative climate, be courteous, receptive, flexible, responsive and professional in you approach. You need to maintain a right degree of formality, control your enthusiasm, display a good sense of humor and move your presentation forward step by step.

It is equally important to use clear, precise, appropriate, dynamic and pleasing simple *language*. Walt Whitman wrote in **Leaves of Grass**, “The art of art, the glory of expression and the sunshine of the light of letters, is simplicity.” Easy grammar and simple, concrete, specific, vivid and sensory vocabulary is listener friendly. Personal language (I, We, You, Sung, Shintaro, etc.) is better than impersonal language (one, somebody, a person, people, etc.). Moreover, verbs are more effective than nouns. Before I conclude, let me remind you that *tones, pauses, silences, sentence stress, gestures, facial expressions, and postures* convey messages and attitudes. Finally, you should welcome *questions* from the audience and answer them. You can answer most questions using your common sense and experience.

If you follow the steps and tips offered in this paper, I am sure you will be able to make effective presentations. Having read the paper, some experienced presenters might be wondering if the paper has anything novel to offer. I would like to conclude the paper by drawing their attention to Borges cited in Bekerman and Neuman (2005). Borges opens one of his fictions with an insight he attributes to Francis Bacon: Solomon said that there was no new thing upon the earth, that all knowledge was but remembrance, and all novelty was but oblivion.

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