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Foreword

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Benefits and Drawbacks of Plain Legal English

The *Plain Language Movement* acted as the catalyst for the *Plain Legal English Movement* aimed at questioning and challenging the clarity of legal language. Mellinkoff's *The Language of the Law* (1963) is one of the most influential publications to emphasise the defects of legal language. In the search for precision and caution, legal English tends to be verbose, archaic and redundant (Wydick 1978; Tiersma 1999; Williams 2004 and 2011). Tiersma (1999, p. 51) posits that "lawyers seem to have developed linguistic quirks that have little communicative function and serve mainly to mark them as members of the legal fraternity". Legal writing, in fact, is claimed to be "the largest body of poorly written literature ever created" (Lindsey 1990, p. 2).

The literature has long addressed and discussed *legalese*, which is an intricate aspect of the language of the law. Its features are varied, such as nominalisation (Tiersma 1999, pp. 77-79; Williams 2004, p. 115; Coulthard and Johnson 2010, p. 10), the frequent use of passive forms (Williams 2004, p. 114), long sentences characterised by syntactic discontinuities and embeddings (Williams 2004, pp. 113-114; Williams and Milizia 2008, p. 2215; Coulthard and Johnson 2010, p. 22), lack of punctuation (Williams 2004, p. 113; Coulthard and Johnson 2007, p. 45) and deictic elements where pronouns, particles and adverbs refer back or forward to concepts, things or people mentioned in the text (Abate 1998, pp. 14-16; Bhatia 2010: 28). Furthermore, legal language is male-gendered and characterised by sexism as it still uses masculine generics (Griffith 1988: 135;

Leonardi 2021). Some scholars highlight the ambiguity in the use of modal verbs (for example, "shall" is used to express obligations or prohibitions instead of future actions or scenarios) (Tiersma 1999). There are also archaic expressions sourced from Latin and French, which may be incomprehensible to laypersons (Laster 2001: 246; Bhatia 2010, pp. 26-29).

Given the above, the Plain English Movement began in the 1970s with the aim of reducing the verbosity and intricacy of legal language (Wydick 1978; Williams 2004, 2008 and 2011). Some of the main features of plain legal English are aimed at: 1) eliminating archaic and Latin expressions and unnecessary words to reduce sentence length, 2) reducing nominalisation, 3) avoiding the passive voice and 4) using gender-neutral language. In practice, the general purpose of plain legal English is to draft legal texts that can be understood by the "average person" (Wydick 1978; Williams 2008; Tessuto 2008a, 2008b; Maci 2014; Gotti 2016). Since then, huge strides have been made and several institutions and legal drafters have embraced plain English principles (Williams 2008; Williams and Milizia 2008; Gardner 2016; Williams 2023).

Nonetheless, the use of plain legal language is currently controversial. Some scholars, for instance, inform about lawyers' fear of making mistakes when they use plain English (Adler 2012, p. 15), whereas others highlight the necessity of complexity in some legal expressions or phrases, as excessive simplification may be wrong or could give rise to inaccuracies (Solan 1993, pp. 129-138). Furthermore, some researchers suggest avoiding the indiscriminate use of plain language in legal translation by pointing out that legal translators should refrain from rendering an intricate legal text into plain target language, unless expressly requested by their clients or translation project managers (Giampieri and Harper 2023, p. 15). Others report that more than a matter of language and linguistics, it is the intrinsic character of the law and the growing importance of technical rules that make legal texts intricate (Ződi 2019). Hence, plain English would not necessarily make things easier and as acknowledged by Tessuto (2008a, p. 26) "how effective plain legislative language and discourse may be to make sense of the intricacy and complexity of law to the ordinary reader is open to question".

In light of the above considerations, this special issue provides a discussion forum for investigating legal language from a plain English perspective. It also aims to create opportunities to integrate the work of linguists and legal scholars who focus on analyses of the processes related to the popularisation of the language of the law.

This special issue seeks to bring to the fore the advantages and disadvantages of plain legal English in modern society, in multi-cultural settings and multidisciplinary contexts. To what extent is plain English a resource or a challenge to institutions, legal drafters and people? How can it improve or affect our lives? It also provides an interdisciplinary platform for researchers, practitioners, and educators to present the most recent innovations, trends, concerns, and solutions already adopted in their professional areas. Their insights will converge in a truly multidisciplinary effort to devise and build advanced networks of knowledge to facilitate the interpretation of data in the field of legal linguistics, legal language, and legal translation with a specific focus on plain legal English vs. *legalese* in modern society.

In terms of contributions, Manon Bouyé conducts a comprehensive corpus-based analysis of passive forms within two distinct legal genres and their corresponding plain language versions. The primary objective of this analysis is to ascertain the extent to which passive constructs are deployed in legal mediation documents intended for the general public. To this end, two *legalese* corpora are scrutinised: one comprising legislative documents from the United Kingdom and New Zealand and the other encompassing judgments issued by the Supreme Court of Canada. These corpora are juxtaposed with two plain language corpora: one consisting of brochures with instructions on legal processes and another housing summaries of judgments by the Supreme Court of Canada. The empirical findings corroborate the prevalence of passive constructions within legal discourse. In particular, passive forms serve specific discourse functions in popularisation texts by re-orientating legal content.

Ondřej Klabal's work focuses on the challenges encountered by students in the field of Translation Studies when dealing with plain language. For example, they may have to decide whether to maintain a simplified style when translating into a language where plain language is not widely practised. When translating into English as a foreign language, however, students may be enticed to adopt plain language principles, or conversely, to draw inspiration from parallel documents drafted in *legalese*. In recognition of these translation challenges, the author provides a series of teaching activities designed to raise students' awareness of plain language principles while also bringing valuable language resources to the fore. Through these activities, students can acquire the necessary tools to make more suitable and informed choices in their translation tasks.

Hairenik Aramayo Eliazarian highlights how, in recent years, various Hispanic countries have witnessed a rise in Plain Language (Lenguaje Claro) initiatives by public institutions,

involving the creation of corresponding guides. These efforts aim to influence language use within communities through training, regulations, and teaching materials. The article analyses a corpus of plain legal language guides in Spanish, revealing their similarity in focusing on grammatical accuracy and stylistic correctness through abstract rules. However, the study argues that this form-oriented approach contradicts recent findings in writing pedagogy and faces resistance from professionals. Drawing on the theoretical framework for writing instruction developed by Myhill et al. (2020), the author suggests a paradigm shift, wherein plain language is conceptualised as a set of literacy skills rather than rigid rules. The aim is to offer more effective instruction tailored to the needs of legal practitioners.

Aleksandra Łuczak delineates the transformative impact of the emergence and evolution of plain language in Poland's legal context. This advent has unavoidably encountered resistance and bewilderment among numerous law students. Within this framework, the author examines Polish first-year law students' approach to plain English and their ability to understand *legalese* as opposed to plain English. This analysis also seeks to uncover the underlying reasons that prompt students to favour legalese over plain language. The author also provides several practical recommendations to foster the adoption of plain language principles among future legal practitioners.

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