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Plain English Movement and Its Impact on Drafting Legal Documents

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Introduction

The plain English movement started in the 1970s took place by people all around the globe and, mainly in the UK, New Zealand, and Australia, when the problem of using legalese had become a significant issue.It was the first step toward making a difference in an already large area by preparing every legal document in a way that everyone can understand and that only provides all details. Then it progressively began to alter insurance policies by enacting legislation written in simple English. The plain English movement opposes using specialist words in various professions, including legal fields. It has been around for over five decades, and its development has seen numerous ups and downs. Because of this, the trend began, and criticism started into more sophisticated legal English. This movement originated in England and the United States when "consumer groups used the mass media to publicize and mock examples of obscurity in legal papers and government forms, pushing for plain language or plain English. Many authorities have backed the initiative, which is based on research. Proponents advance many arguments in favor of legal English simplification. According to Kimble, "plain language has to do with clear and effective communication– nothing more or less. It does, though, shows a new mindset and a fundamental change from past practices. If anything is anti-literary, drab, and ugly, it is traditional legal writing – four centuries of inflation and insignificance".

Objective

The primary objective of this research work is to determine how legal technicians produced legal papers before the plain English movement and how the drafting style has changed since then. Not only concerning legal documents but also the writing style of all various other documents that contain important information were affected after this movement. Also, how the campaign started, what its result was, and its effect on different countries need to be studied.

Literature Review

1) Plain English Movement: An Analysis

The main aim of the plain English movement was to replace complex and legal terms and phrases with straightforward terms that everyone could understand. Many scholars started writing books and conducting research on the plain English movement. The books "Language of the Law" by David Mellinkoff and "Plain English for Lawyers" by Richard Wydick significantly impacted specific English training in the United States. The campaign was hyped among the general public as a result of this. At the time, this movement

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was changing consumer rights, contracts, and insurance policies. Many law schools are encouraging students to learn simple English instead than legalese. Following those events, the plain English movement made strides in its evolution, adjusting to societal changes... President Richard Nixon declared that the "Federal Register" would be written in layman's terms. It was done within a few years, with the phrase "written in simple English and understandable to those who must comply with it" being used. Seeing so many countries participate showed how far the plain English movement had progressed globally. The Plain Language Association International (PLAIN) was created in Canada in the 1990s to act as a medium for this. Simultaneously, the president ordered that all official government documents be written in plain English. PLAIN was essential in developing simple language when President Barack Obama signed the Plain Writing Act of 2010, which mandated that all federal documents containing legal terms be recast in plain English. Plain English is gaining traction in the courts, and according to a study, it is the most easily comprehended by regular people. The simple English movement has had numerous ups and downs since then, culminating in a shift in the globe.

2) Plain English Movement, The Plain English Movement: Panel Discussion

The plain English movement is the name given to the first successful attempt to change this and develop legal documents, particularly those used by customers, that is understood not just by legal experts who draught them but also by the consumers bound by their provisions. Consumer protection through information flow is most likely a concept from the twentieth century. Several regulations established in the recent half-century have reinforced the idea that "the best-equipped customer is the well-informed consumer." The securities regulations of the 1930s required a corporation in which a person might invest to disclose its operations to the public fully. Individuals who purchased on time were required to get disclosures under the Retail Instalment Sales Acts of the 1950s. More recently, the Truth in Lending Act of 1969 mandated that all consumer credit transactions include a uniform set of disclosures. The purpose of these statutes was to provide information. That is, they demanded that facts be provided for a consumer ready to enter into a transaction to do so with confidence. The statutes lacked a means for enforcing them. There was no guarantee that the information would arrive and be appreciated by its intended object. We've been seeing an increasing amount of dissatisfaction with these information-oriented statutes. The accumulation of data did not imply that it would be valuable in the long run. Because the purpose of these regulations was to collect and disclose more information, the sheer volume of data rendered it less accessible to the average consumer. The term "information overload" was used to describe the situation. It's just as dangerous to have too much information as to have too little. To see what could be done, experts worked on these bills (many of whom are still working on them). The plain English movement focused on a specific issue. It

provided a way for the information that started here to end up somewhere else. The focus shifted away from news and toward communication. This is the movement's defining characteristic and, most likely, the cause for its widespread popularity.

3)The History of The Plain Language Movement and Legal Language

The plain English movement, which was one of the oppressive movements around the world, began by focusing on drafting every legal document in a way that anybody could comprehend and in which all details could be supplied unquestionably. The 1970s were the first decade in which presidents put plain language to the test. President Richard Nixon "directed that the Federal Register be written in 'layman's terms,'" but nothing was ever signed or drafted as a result. Following that, President Jimmy Carter attempted to address the problem of complex language by issuing an order that all documents be comprehensible. He stated that language must be "affordable." This is an interesting concept because language is rarely equated with a monetary value. President Carter, on the other hand, was wise to think of the implications plain language could have other than just calming people's minds. Wouldn't it be enough to persuade departments to write in clear English if doing so could save the government money? After President Ronald Reagan rescinded Carter's directive in the following decade, progress toward simple language slowed dramatically. However, lawyers soon began to embrace the movement, and one, in particular, became an advocate: Joseph Kimble. Kimble was significant since he was a law professor who worked on law publications and wrote a simple language column. Despite only minor progress in the 1980s, President Bill Clinton signed many directives and issued a "Memorandum on Plain Language in Government Writing" in the early 1990s. The United States government established an online website for resources connected to plain language writing in 1994. The Plain Language Action and Information Network was established to assist government officials in writing in plain language across departments. US PLAIN discusses the advantages of utilizing plain English in an easy-to-read bulleted format. The point is more simply recognized, comprehended, and correct when something is written in plain language. As a result, there is less chance of information being misconstrued. The advantages are both intangible and tangible, as US PLAIN points out. Many individuals will only believe in a movement or a concept if they can see tangible outcomes and changes. As a result, if something is expressed clearly, it might save time and money for the author or organization. There are numerous organizations involved in the PLM. The Plain Language Association International, Clarity, and the Center for Plain Language are the organizations that support plain language. PLAIN not only assists in promoting the PLM in English-speaking nations but also provides information in fifteen other languages for the more than thirty countries with which it collaborates. The site directs users to resources in their preferred language if materials are

unavailable. In addition, the organization offers events and competitions to encourage writers to express themselves clearly. The organization holds biannual international conferences where it honors competition winners and promotes new ideas to foster collaboration. Finally, on October 13th each year, International Plain Language Day is observed to celebrate people's accomplishments and promote PLM. As previously stated, several organizations and groups are working to promote the PLM, but the government is also making progress. During his first term, President Barack Obama signed the Plain Writing Act of 2010. Plain language is defined as "writing that is clear, brief, well-organized, and follows other best practices appropriate to the subject or field and intended spectators," according to the Act. Each agency is required by the Act to have resources to check documents before they are distributed to ensure that the wording adheres to the Act's principles. Agencies and organizations appear to be trying hard to comply with the Plain Writing Act of 2010. The Centers for Disease Control and Prevention (CDC) has a page dedicated to basic writing on their website. The website contains both information and an explanation of what they are doing. The Centers for Disease Control and Prevention (CDC) has a Health Literacy Council that seeks to "substitute terminology with real-life examples of difficult public health passages wording has been modified." "Plain Language Materials & Resources" aims to "improve understanding" by providing "help to reinforce meaning and prevent other common blunders ."Many additional government divisions have been affected by the Plain Writing Act of 2010. For example, the Department of Education publishes an annual compliance report that outlines what the department accomplished the previous year and what it plans to do to enhance writing and communication the following year. The reports are open to the public, and any questions should be sent to the team leader of the Writing Division ("Plain Writing Initiative"). The government tries to write in plain English, although this is not always the case. Walters v Reno was heard by the United States Court of Appeals for the Ninth Circuit in 1998.The plaintiffs were about to be deported, but the forms issued by the INS were so complicated that they decided to sue. The court had to decide if the complicated language on the INS forms was constitutional and whether the plaintiffs had due process. The plaintiffs were "granted the requested relief" because the INS documents violated their due process rights, and "the court determined that the INS' forms and procedures were misleading and confusing to the point of being unconstitutional."

4) Legal Writing in Plain English, Second Edition

This book was published in 2013 to enhance the way lawyers use English. A revolutionary manifesto wrapped in a basic grey wrapper is interspersed with rules of good writing. This book will hardly attract attention just by resting on your shelf; however, if you include some of its recommendations in the following legal document you prepare, you will undoubtedly raise the brows of any lawyer

who reads it. In a way that no other book has ever done, this superb book illustrates every important idea of plain legal writing.

All too frequently, legal writing lacks the virtues of being admirably clear, concise, down-to-earth, and compelling. It has a well-deserved reputation for obscurity and pointless legalese. "Legal Writing in Plain English" has aided in the solution of this problem by providing sound guidance and practical methods for improving the written work of lawyers, judges, paralegals, law students, and legal scholars. This indispensable volume, now the leading guide to clear writing in the field, encourages legal writers to defy conventions and provides valuable insights into the writing process that will appeal to other professionals: how to organize ideas, write and refine prose, and improve editing skills. "Legal Writing in Plain English" is an accessible and witty book that draws on real-life writing samples accumulated through Garner's decades of teaching experience. The book's ideas are reinforced with sets of basic, intermediate, and advanced tasks in each part, and Trenchant's counsel covers all forms of legal materials, from analytical and persuasive writing to legal drafting. Garner maintains the original's excellent structure while tweaking the content to make it even more classroom-friendly in this updated edition. He uses case examples from the last decade and discusses the widespread use of electronic legal papers. His book is still the go-to resource for crafting the jargon-free prose clients want and judge reward.

Its Impact on the drafting of Legal Documents

Legal English has long been regarded as a distinct dialect of the English language. It is larded with law-Latin and Norman-French, heavily reliant on the past, and unapologetically medieval in form and language. Terms like herein, wherein, and whereas – words that have long been lost to daily language flourish in antiquated words. Through the liberal use of jargon and stilted formality, a false feeling of accuracy is conjured: the stated, aforesaid, same, and such. Oddities abound: oath swearers do not believe anything; parties do not yearn for something; the clearest photocopy merely pretends to be a copy; and so on. All this and much more from a profession that prides itself on being educated.

In recent years, though, we've seen an increasing threat to traditional legal English. Several lawyers' branch members have adopted a less formal and self-important writing style; some precedents and opinions are now written in a less proper and self-important manner. Change at the bar has been less noticeable. Barristers' opinions and pleadings often preserve the earlier, more formal style unless pushed to do so by external factors such as the Woolf reforms.

Let me give a few examples, just in case anyone doubts the necessity of modifying the traditional legal writing style. The first is repairing the covenant' from a lease that went to court over a construction dispute (see Ravenseft Properties Ltd v Davstone (Holdings) Ltd [1979] 1 All ER 929).

Lord Hoffmann has described this style of lease drafting as "torrential" (see Norwich

Union Life Insurance Society v British Railways Board [1987] 2 EGLR 137 at 138). It's a rambling writing style that makes the document far more challenging to read than the subject matter demands. And in this case, the vocabulary, which was undoubtedly driven by a desire to be precise, did not prevent a disagreement about meaning in the end. This clarifies one of the most widespread misconceptions regarding traditional legal drafting: that it is more precise than modern plain English.

Why do lawyers hold on to writing in their complex traditional style?

Inertia is the first factor. Lawyers unquestionably accept the style used by lawyers in the past. This is a strategy that is taught in law schools. Most law schools in the United States make no systematic effort to teach students the principles of plain, direct writing, which is a sad but true reality. In reality, students are frequently encouraged to write in a formal, academic manner. This method may work for legal review papers, but it is ineffective for conveying information to non-lawyers, who are the target audience for much of what lawyers write.

The second aspect is a necessity, or, more accurately, a perceived necessity. Lawyers write in an adversarial environment for a possibly hostile audience. Their documents are prone to scrutiny by loophole-seeking opponents. As a result, attorneys are concerned that change may result in ambiguity or that simplicity would result in ambiguity. They are worried that deviating from standard language and style could result in sloppy drafting and professional malpractice.

Insecurity is the third factor. The rapid pace of current legal practice limits the amount of time available to research new ways of articulating old ideas, and when time is short, it seems safer to stick with the old than to risk the unknown. To be honest, some of this insecurity derives from a lack of knowledge. Lawyers confident in their practice fields understand that most of what they write may be restated in more straightforward language without risking a bad result.

The next consideration is complexity. Some legal principles are said to be complex by nature, which is correct. It is claimed that as a result, individuals cannot converse in plain English. It is stated that complex ideas demand complicated language. On the other hand, existing primary English statutes and papers reject this claim. Victoria's Law Reform Commission effectively disproved the so-called "argument from intrinsic complexity." As part of the Commission's 1987 Report on Plain English and the Law, the Victorian Companies (Acquisition of Shares) Code was translated into plain language. As an Appendix to the Report, the translation was included. Income tax legislation is probably the most complicated subject for legislation. As a result, understanding the statute (in its original version) required 12 years of schooling plus 15 years of university education, totaling 27 years of teaching. Similar plain English 'translations' have since been done in other areas of law, including companies law and taxation, both here and in Australia.

In summary, no legal topic has yet shown to be too tricky for Plain language to handle. Although plain language will not be able to simplify thoughts, it will make the expression of ideas more accessible. When utilized appropriately, simple language makes complicated subjects easier to understand.

The fifth factor is Safety. Another argument claims that traditional legal drafting is 'safe,' whereas plain language is not. Many terms and phrases have legal definitions and substituting a modern word eliminates the legal definition's value. It's possible that new meaning will have to be established, perhaps through litigation.

However, there appears to be little actual evidence to back up this assertion. There is no evidence that 'plain language' statutes or documents cause more litigation than traditional ones. On the other hand, experience with standard-form legal documents shows that a well-written plain-language paper does not require judicial clarification. Attempts to extract meaning from traditionally worded documents, on the other hand, are constantly appearing on court lists. I don't mean to imply that translating traditional legal terminology into everyday language is a simple task. Minor changes in meaning can occur during the translating process.

Furthermore, the plain language version must represent the legal complexities of the original. This may necessitate some research. It's just as risky to use an old phrase without understanding its legal importance as it is to use a new word without understanding its legal significance. The most challenging component of drafting in plain language knows when to replace the old with the latest and when to leave well enough alone. Translating some actual legal terms of art into simple language can be difficult.

Research Methodology

The methodology is the study of research procedures, or, more precisely, research 'contextual Framework,' a coherent and logical framework based on viewpoints, attitudes, and values that guide researchers' conclusions. This study will concentrate on qualitative research methods. I'll employ an inductive research strategy, in which we collect data from articles, journals, and books, analyze it for patterns, and then develop a hypothesis with a broad scope. This method is covered under qualitative research methodology. The design emerges as the study progresses; data comes in the form of words, interviews, photographs, and so on; data is richer and more time-consuming in qualitative research. In this situation, inductive reasoning is applied. The theory is developed during the investigation. In qualitative research, we will use Simple Descriptive Research, which describes the facts and characteristics of a specific population or location in an organized, factual, and correct manner. John and Adams are a couple. It could be qualitative, quantitative, or a mix of the two. It's primarily concerned with figuring out "What is." It focuses on how what, and when rather than why.

We'll look at the qualitative data we gathered from primary and secondary sources. The primary goal of this study will be to address two questions: first, how did the Plain English Movement begin, and

second, how did it benefit drafters? The information will be gathered through searching the internet for articles, journals, case studies, and books. After we've completed our data collecting and analysis, we'll create a hypothesis and compare it to the null hypothesis we presented in our Research Paper.

Data Analysis and Interpretations

The plain English movement of 1975-80 may be usefully thought of as part of a long evolution in consumer protection. Consumers have always existed, and regulations safeguarding them may be traced back to the Code of Hammurabi's anti-usury clauses. The idea of consumer protection through information flow is most likely a 20th-century concept. Several regulations established in the recent half-century have reinforced the idea that "the best-equipped customer is the well-informed consumer." In the 1930s, securities legislation mandated that a corporation in which a person could invest completely disclose its operations to the public. The Retail Instalment Sales Acts of the 1950s12 required that individuals who bought on time get disclosures. More recently, the Truth in Lending Act of 1969 mandated that all consumer credit transactions include a uniform set of disclosures. A specific topic was the focus of the plain English movement. It served as a conduit for information that began here to end up somewhere else. The emphasis shifted away from facts and toward dialogue. This is the movement's defining feature and the most likely reason for its enormous success. However, the movement sparked a slew of issues right away.

Results and discussion

Simple English contracts, and possibly plain English legislation, appear to provide apparent individual and social benefits at first appearance. Theoretically, using agreements written in plain language should help consumers better understand contractual terms, make more accurate contract decisions, and promote more exact contract pricing. Consumers aware of their contractual duties are more inclined to carry them out. Commercial goodwill has been touted as a selling tactic, as has the usage of clear English contracts.

Recommendations

This study seeks to demonstrate why it is critical for legal documents, such as court decisions, to be written in simple, essential, and intelligible English. However, as the section explains, achieving such a goal is not as straightforward as it sounds. Nonetheless, here are some pointers that may assist you in achieving your objective: To begin, judges and lawyers should be educated on the value of writing in plain English, especially when making judgments. They must be made aware of the societal implications of doing so and how far this step will go toward ensuring that all citizens have equal access to justice and fostering a well-informed citizenry. Once this is accomplished, the judges should be instructed in the skill of writing clearly and understandably. Few nations have implemented such a scheme in which judges are taught the craft of writing judgments. In legal papers, including verdicts, common terminology, and straightforward, comprehensible language should be utilized. Unless necessary, avoid

technical and unduly verbose vocabulary and terms and phrases taken from other languages such as French and Latin. Other legal documents, such as statutes, deeds, agreements, contracts, and so on, in addition to judgments, may be more critical. What good are these norms, rules, regulations, duties, and rights if they are not understood and comprehended by those for whom they are intended, i.e., regular people? As a result, the author of this article proposes that efforts be made to end the practice of using legalese in drafting legal documents and writing judgments. Along with legislation establishing plain English, the Indian government could hold global conferences and webinars to create a cohesive movement.

Limitation and scope for further research

Intelligibility is a measure of how transparent something is. In general, each person possesses a unique set of skills and knowledge. Our knowledge and capacity are developed due to our educational backgrounds and brain capacities. Writing, reading, and finally, understanding is all mental acts that require some mental capacity. Intellectual exercises exist in various forms, each with a different level of difficulty, consequence, or achievement. Because they have varying knowledge, power, and experience, three drafters, for example, will redraft one article in an act in various ways. The identical image will appear on the readers' side during the reading process.

When it comes to legal documents, there is a lack of legal understanding between lawyers and their clients, as well as between drafters and members of the public when it comes to public documents. According to James B. White, there is an 'invisible language' of laws that non-lawyers are unaware of. This 'invisible conversation' prevents the parties from communicating.

Legalese has undoubtedly created a barrier between the reader and the text. His use of legalese will obscure the words, rendering them incomprehensible. Countless cases have been brought before the courts due to a misinterpretation of legal terms. In some cases, not only has money been spent to ascertain the true meaning of legal terminology before the courts, but countless hours have been lost dealing with legalese. The 'clear, simple, and exact' ethos of the plain English movement aims to address these issues. It's unavoidable that the primary English movement devotes so much time and effort to dealing with legalese. It is the cause of the majority of difficulties in comprehending legal papers. Plain English advocates must address the linguistic issue: the problem of words to solve and less the trouble. Penman's observation that simple English appears to be a text-based method could not be rejected in this case.

To allow laypeople with average knowledge to understand laws and build laws that communicate well to their intended audience, wordsmiths must first eliminate language difficulties. A text-based solution is, of course, the best way to eliminate legalese's linguistic stumbling obstacles.

Conclusion

The benefits of plain legal language greatly outweigh any pitfalls that lie in the path of its adoption. The simple language will inevitably become the standard over time. It'll be tough to hold back. It may, however, take a long time. Traditional legal terminology will take a long time to go out. However, it will succumb to the truth that it is flawed and that current, standard English is perfectly enough for legal purposes. And Because plain English has influenced many areas like consumer rights, insurance policies, and a few contracts, it now has got to be delivered to the forefront and applied to several more legal areas.

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