

розмовляють однією мовою. Саме тому, іноді важко зрозуміти з іншої країни, якщо вона не розподіляє ваших поглядів, атиюдів та цінностей.

На думку В. Знакова, навіть коли ми намагаємося зрозуміти щось зовнішнє, якусь об'єктивну реалію, ми виражаємо самих себе, розширюємо та розуміємо свій внутрішній світ. Таким чином, розуміння об'єктивної реалії (в даному конкретному випадку – національної психології носіїв мови, що вивчаємо) допомагає нам краще усвідомити, хто ми є і яке місце посідаємо в цьому світі.

Тому, на нашу думку, ведення кросс-культурного елемента в програму навчання іноземним мовам не тільки поширить знання студентів про інші національні культури і таким чином полегшить для них процес спілкування та розуміння носіїв інших культур, але і посилить їх почуття етнічної приналежності та допоможе краще пристосуватися для життя у сучасному світі.

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LEGAL LANGUAGE TRANSFORMATIONS IN ENGLISH SPEAKING COUNTRIES

Like other sciences, law has developed its own language. Legal terminology and expressions seem foreign to the layperson as the terminology and expressions used by the professionals of other professions. When students enter legal school they use, for example, such word as ‘court case’, but when they leave they use another word - ‘hearing de novo’. These transformations happen due to the influence of a senior practitioner over a graduate. Graduates learn by observing senior practitioners and by adopting the way, they practice. Indeed, it can be said, “each generation of lawyers trains the next to follow its ingrained habits”.

It's very important for lawyers to adopt plain English in their everyday practice. Although plain English has some limitations, it outweighs the potential disadvantages. Practical examples prove that plain English can be used in communicating with clients, with other lawyers, and in drafting legal documents. English language has been changed during many centuries like other languages. Linguists continually analyse language changes. They say that language is produced by behavioural conventions and when behaviour changes so does language. Language changes are often first observed in casual spoken language and occur in written language some time later. We can emphasize that the evolution of English language influences changes and modifications of it both in spoken and written language.

Modern language constantly develops through daily usage and technological advances. However, the legal language remains mostly "conservative and static", because we continue to see archaic phrases and Latin terminology in lawyer's verbal and written communications. For example, although the expression 'May it please you' is redundant in everyday speech, lawyers use it every day when announcing their appearance in court.

Linguists have identified legalese as a distinctive dialect in legal documents. Legalese has its roots in Latin, relies on precedents, and lawyer's general preference to achieve professional differences. Legalese has been criticized for making the law mysterious and unclear to those people whom it affects. This led to the emergence of the Plain English Movement, which encourages the use of simple and ordinary language, or plain English.

Plain English is ordinary English. It promotes the use of plain language in legal writing to make it intelligible to the public. It also encourages using plain English to help people without special training understand what is being said. It does not mean that lawyers must speak and write in a way that absolutely every person in society understands. It means that lawyers should speak and write in a way that makes it easier for people to understand.

The objective of plain English is to improve the way lawyers communicate. Plain English tries to prevent the use of legalese, legal jargon, and Latin expressions in favour of simple terminology. There are many archaic words that lawyers rarely use because they are almost redundant.

To reduce the using of archaic words and expressions the Law and Justice Foundation of New South Wales published a list of some 200 examples of plain English words that should be used instead of legalese.

For instance, it encourages using:

- 'about' instead of 'as to';
- 'sue' instead of 'bring an action against';
- 'in this' instead of 'herein';
- 'at least' instead of 'not less than';
- 'before' instead of 'prior to';
- 'under' instead of 'pursuant to';
- 'after' instead of 'subsequent to';
- 'good faith' instead of 'bona fide';

- ‘from the beginning’ instead of ‘ab initio’;
- ‘prevented’ instead of ‘estopped’;
- ‘immediately’ instead of ‘forthwith’;
- ‘if’ instead of ‘in the event that’;
- ‘no effect’ instead of ‘null, void and no effect’;
- ‘until’ instead of ‘until such time’;
- ‘to’ instead of ‘for the purpose of’; and
- ‘enough’ instead of ‘sufficient number’.[3]

One of the advocates of plain English the Honourable Michael Kirby, a past Justice of the High Court of Australia, agrees that “it is not always easy for lawyers to write and speak plain language”, and recalls his campaign during his service on the High Court for his colleagues to drop the expression ‘lex loci delicti’ in favour of ‘the law of the place of the wrong’. His explanation of why he failed is that, perhaps those who considers themselves as members of an expert priestly caste prefer a dead language because it expresses the mystery of technicality. English, after all, is a very mixed up tongue. Moreover, clients may be more willing to pay more for Latin. However, he considered that it is not very difficult for a lawyer to improve legal expression, and created ten principles that he says will make a lawyer’s legal language “much more direct, simple and vigorous”. These principles are:

1. Begin complex statements of fact and law with a summary (the issue, crucial facts and answer) to let readers know where they are going.
2. Break up long sections and paragraphs and order them in a logical sequence. Group related materials together in a sequence that will appear logical.
3. Pay careful attention to the layout (font, font size, white space, indenting). Format with plenty of headings and subheadings to identify the progression of ideas.
4. Use vertical lists to convey detailed information. Number the items for later reference.
5. Choose short and medium length sentences. A sentence should not exceed twenty words.
6. Have continuity between sentences by repeating some idea from the previous sentence in the new sentence. End sentences forcefully by putting the strongest point last.
7. Choose the active voice instead of the passive voice. The passive voice should only be used if the agent is unknown, or if attention needs to be placed on the object of the action instead of the agent.
8. Prefer verbs to noun phrases e.g. ‘consider’ instead of ‘give consideration to’.
9. Use familiar words that are simple, direct, and human.
10. Avoid unnecessary detail and words such as prepositional phrases e.g. say ‘a court order’ instead of ‘an order of the court’, and ‘the landlord’s duty’ instead of ‘the duty of the landlord’ [3].

These principles indicate that plain English includes more than just the use of plain words. In order to improve the reader’s understanding of letters and other

legal documents the style of drafting and formatting is also important. The style and format, such as the structure of sentences and paragraphs, and the order in which information is presented, must be simplified.

There are many benefits of using plain English. It makes the law easier to understand, reduces legal costs, minimises litigation, and strengthens the relationship between the lawyer and the client.

Dr Stern, a consultant lecturer in Linguistics at the Australian National University, is of the opinion that using plain English saves many syllables and is much easier for the reader. He says that plain English “gives the reader less to read for the same amount of information”.

Written communications with clients include email communications. The practitioners are recommended to adopt the same language with clients whether communicating verbally or in writing.

Consider the following formal letter to a client:

Dear Mr. Smith,

We refer to our previous communications and advise that we are in receipt of the Plaintiff’s Reply to the Defence filed on your behalf by your previous solicitors.

We enclose the Reply herein. Please peruse the Reply and revert to us with your further instructions. We further advise that the Plaintiff is correct in asserting that the Defence filed on your behalf contains several deemed admissions. Our perusal of the Defence indicates that several paragraphs were improperly pleaded pursuant to the Uniform Civil Procedure Rules of Queensland. Pursuant to the Rules applicable in this jurisdiction we cannot simply amend and file the Amended Defence but must first seek leave to withdraw the deemed admissions. Once leave is granted, we can then seek to file and serve an Amended Defence on your behalf.

We enclose the relevant excerpts from the Rules for your information herein. Please familiarize yourself with these and contact the writer to provide your further instructions.

We look forward to hearing from you.

On the surface, it seems that nothing is wrong with the letter. However, the client may not understand who the plaintiff is, and who the defendant is. The letter also contains many words a layperson may not understand. Replacing the legal jargon with everyday words will change the above letter this way:

Dear Mr. Smith, I received Mr. Black’s Reply to your Defence.

I enclose the Reply. Please read it.

Mr. Black is correct in saying that the Defence contains several deemed admissions. This means that some paragraphs in the Defence were incorrectly written. I cannot simply re-write the incorrect paragraphs and re-file your Defence. I must first ask the court’s permission to do so. If the court gives its permission, I can then ask to file another Defence.

I enclose the relevant parts of the Uniform Civil Procedure Rules about deemed admissions. Please read them and contact me to discuss the next step.

I look forward to hearing from you.

The second letter is much simpler. It refers to parties by names and removes many unnecessary words. The purpose of this brief letter is to demonstrate that complex letters can be re-drafted in plain English.

That's why, using plain English saves clients costs. Clients pay less for drafting letters and documents because they are shorter. They also contact their lawyer less frequently for explanations because it is easier to understand the documents. Further, studies have shown that people who understand the agreements they enter into are more likely to fulfil their obligations under the agreement and less likely to begin litigation when a problem arises.

Similarly, clients who understand their lawyer's advice will never say, "My lawyer never told me that". In fact, a common complaint made by clients is that the lawyer failed to communicate adequately with them. Using plain English, therefore, minimizes misunderstandings and reduces the likelihood of litigation.

To sum up we should say that using plain English also strengthens the lawyer-client relationship. Clients appreciate receiving simple and logical explanations. Using language that clients understand results in higher client satisfaction. Otherwise, it is recommended that practitioners use plain English in all instances.

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