Legal Writing Styles: Clarity Vs. Complexity

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ABSTRACT

This paper examines the dual demands of clarity and complexity in legal writing, examining how these contrasting approaches shape readers' understanding and perception of legal texts. While clarity facilitates accessibility, especially for non-specialists, complexity often becomes essential to convey intricate legal doctrines accurately. The study investigated the historical context, the rationale behind both styles and the modern debate on balancing these elements in legal writing. Ultimately, it proposes strategies to harmonize clarity with necessary complexity, ensuring that legal writing meets diverse audiences' needs while maintaining the precision critical to legal discourse.
Keywords: Legal Writing, Clarity in Legal Language, Complexity in Legal Texts, Communication in Law, Legal Jargon.

INTRODUCTION

The ability to communicate effectively is a hallmark of the legal profession in the United States. Therefore, best practices are developed to write with clarity: being precise and decoding to audiences that may have limited formal education. Despite these best practices, there is little guidance around levels of complexity in legal writing. This paper seeks to answer a fundamental question: What is the appropriate level of complexity or simplicity for legal writing, and how does the level of complexity shape reader attitudes toward writers and their arguments? [1, 2]. Legal writing, or law writing, historically has been a professional style created by the professionals of the profession and for the professionals within it. Early English legal writing was ornate to reflect legal history rather than to provide clear guidance. In the 19th century, legal writing shifted to an attempt to codify the law and explain it to both legal professionals and the laity. Legal writing is understood as a style that reflects the norms of professional precision and clarity, using research to support stated propositions. It communicates a writer's understanding of the subject, which is substantiated with borrowings from experts; in doing so, writers position themselves in regard to that domain, usually done by accrediting authors with expertise. Ultimately, legal writing's very upholders both value and critique the use of expert jargon and advocate for a middle ground. Because the legal argument in key court documents shapes the course of the case and the law, lawyers and judges say they need to find this balance [3, 4].

The Importance of Clarity in Legal Writing

Clarity in legal writing is not simply a stylistic virtue. As legal pragmatists point out, clear legal communication can help accomplish the goals legal writing is supposed to serve: educating, persuading, and negotiating with a variety of audiences, including clients, other attorneys, judges, juries, mediators, landlords, tenants, and the like. The most basic reason clarity matters is that lawyers want their readers to understand and act on what they write. Clear sentences are easier to understand than convoluted ones. This sentiment aptly applies to legal writing: clear legal writing appears to be more likely to be understood than unclear legal writing. Every time an attorney's writing is clear, she increases the likelihood that her clients will understand it and act on her advice, that other lawyers will understand it and respond to it, or that a tribunal will understand it and rule in her favor [5, 6]. The same reasoning applies to the writing styles undergraduates emulate. Even if the sentences are long and the content jargon-ridden, good, college-educated readers can decipher hard-to-read texts. Other stakeholders in the

legal system may not have similar skills or patience. Most importantly, people who have to make high-stakes decisions about those documents may choose to give limited attention to documents they find hard to understand. Worse, they may not understand those documents and not know that they do not understand. Moreover, long complex sentences often invite symbolic misinterpretation of their own kind, as with garden-path sentences or with syntactic ambiguity inside this sentence: "Consider the rationale of the plan, and the President answered it affirmatively; it does not have a property tax built into it." For several reasons, then, this final sentence is much easier to understand and harder to misinterpret than the long convoluted sentence. As illustrated, "it" is much more likely to be understood as taking no property tax into consideration. Thus, even in and of itself, shorter, simpler sentences will best promote the communicator's expressive goals [7, 8].

The Role of Complexity in Legal Writing

When approaching legal writing, it makes little sense to deny the complexity that is inherent to the legal or drafting process. Thus, it is natural that legal abstracts as well as legal documents incorporate complex legal concepts and doctrines that demand sophisticated language. From this angle, complexity becomes an efficient instrument to be accountable for complex and intricate legal principles and arguments. If a certain content is complex, a certain level of complexity in the language that is used to convey the message might be necessary to avoid ambiguity [9, 10]. Yet, if complexity serves the purpose of achieving precision and a certain level of exactness, it becomes obvious that such a style of writing is not appropriate in all contexts. In order to figure out when to favor black letter words and when to opt for plain words, we have to assess the concrete target, aim, message, or audience a legal document is referring. It is also noteworthy that a higher type of complexity in the use of legal language will assume a higher level of understanding. Accordingly, it is widely perceived that interlocutors dealing with subjects outside the legal scope favor a higher level of simplicity. By doing so, the risk of misunderstanding the message is also likely to decrease. Therefore, the use of more technical language might exclude readers because it does not match their competencies. They can hardly understand a certain amount of vocabulary, and this might lead to the interpretation of legal documents that are not shared by the legislator and the interpreter. In a nutshell, it is difficult to establish the 'right' level of complexity because complexity is basically a matter of context and audience [11, 12]. Some might argue, however, that simplicity is by far more important than using plain English because the average reader cannot and does not read all those documents in the first place. That, of course, will affect the course of justice, impair access to the courts by the 'ordinary' person, and force the use of highly paid advisers who can navigate their way through the thicket of legalese [13, 14].

Strategies For Achieving Clarity in Legal Writing

Legal writing is complex. Lawyers must include certain information, select relevant data, and organize their arguments; judges must recognize the lawyers' complex briefs. Crafting readable and understandable legal documents is possible, especially for training and writing. Lawyers have at least three different audiences. First, all the legal documents that lawyers draft will be read by at least one person who will never again read such a complex legal document. Presenting information in an understandable and concise manner is essential. The second audience is in charge of a lawyer but needs to read and understand different arguments, legal classifications, or relevant legal precedents [15, 16].

Strategies: Organize the information so that the reader knows what to expect in the document before investing in the reading. Keep related ideas and arguments together. Include transitions that logically connect arguments and sections. Use plain language and avoid jargon. Define unusual or technical terms. Provide focused background material to lay the foundation for the case or argument, including case facts or statutory elements if relevant. Choose the shortest sentences that make sense. Get to the point. Use specific, concrete examples in your analysis. Use headings and subheadings that clearly signal the subject of the text. Use bulleted lists to summarize complex discussions. Review, preferably with other readers. If the client is reading, use the language of the customer. Annotating and explaining the meaning of the judicial opinion is a valuable practice if the essay does not misinterpret the content of the judicial opinion [17, 18].

Balancing Clarity and Complexity in Legal Writing

Mastering legal writing is a formidable balancing act; we yearn to write clearly but enthusiastically wield our legal complexity. Doing so, however, is somewhat elusive. Earlier, we explored the individual efficacy of clear, reader-centered legal writing and complex, doctrine-centric legal writing. Unfortunately, these two approaches come at a cost: unqualified clarity may oversimplify and unqualified complexity may fail

to persuade. Fulfilling dual roles as law students and practitioners demands that we forsake neither element of legal writing. Our approaches must remain adaptable to context, purpose, and scenario. Clear, reader-centered legal writing may offer a straightforward presentation of the legality of a client's situation while keeping workers' compensation law robustly complex [19, 20].

Some scenarios demand unyielding attention to complexity. When presenting an argument and advocating for a particular result, we use persuasive writing to offer a legal analysis that introduces the reader to the raw complexity of the law at issue while working simultaneously to guide the reader to a conclusion anchored in the existing authority. The court wove a complex legal analysis illustrating a textual conflict and applied it with elegant simplicity, writing that the interpretation of the statute was not reasonable. Furthermore, the determination was not based upon a lawful classification of the condition as preexisting or upon any other reasonable basis but was based purely upon an exculpatory letter from a medical professional [21, 22].

CONCLUSION

Balancing clarity and complexity in legal writing is a nuanced endeavor that requires careful consideration of audience, purpose, and context. While clear, accessible language broadens understanding and invites engagement from varied audiences, complexity remains indispensable for expressing the legal nuances and accuracy required in certain legal documents. Achieving this balance benefits all stakeholders in the legal process, ensuring that legal communication is both precise and inclusive. Embracing a flexible approach—one that tailors style to the document's intent and audience—can enhance the effectiveness of legal writing, bridging the gap between professional rigor and public accessibility.

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