Getting the Message Across in Languages Other than English: The Canadian example

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In the past 20 years, the Plain English movement has become a recognized school of thought at the international level and also in Canada where the federal government has encouraged its growth. For that purpose, it has intervened at two levels: first, by raising the awareness of its civil servants and agencies about the need for clear and simple communications and concern for literacy issues, and, second, by developing training programs and tools to implement, as much as possible, the lessons of experience mostly drawn, in the beginning, from other jurisdictions.

As the Plain English movement was gaining an official standing as a policy in Canadian government communications in several areas, the institutional bilingualism as practised at the federal level and in some provinces led to a similar undertaking in French. In the Quebec context, although the government never made it a general policy to adopt Plain French solutions in public documents, the concern for clarity has always been very present but rather expressed as a need for administrative simplification.

In parallel, the Plain English movement made some significant inroads in the European institutions where one may now see the development of a more universal approach. As indicated in *Clarity* No.47, the interest for Plain English has become a multilingual affair, that is more a Plain Language endeavour. At the supranational level, the European Commission, through the "Fight the Fog" campaign, has demonstrated its willingness to remedy the problems caused by jargon and other deficiencies in many of its language groups and, most notably, among European lawyers.

The early participants in the movement to expand Plain English were the Swedes, more than 15 years ago; they took the first non-English national initiative towards plain official writing and, more importantly, plain legislative drafting. Later on, in the 90's, with the help of Plain English Campaign, the British organization and its network, Swedish, French-Canadian and Basque speakers were given a chance to appear in several international conferences to spread the word among other cultural and linguistic groups. At the national level, German and Italian legal and administrative writers did not hesitate to use the Plain Language model to outline their original processes and style of simplification, as well as their achievements in their respective jurisdictions. The French in Belgium, without being directly involved in the Plain English networks, made a valuable contribution to the Plain French research, most notably by instituting a Plain Language Committee to help simplify government writing. Lastly, France took a highly visible and official stand in 2001 in favour of Plain French in government communications with the creation of the Committee to simplify official language (*COSLA*). Its work and the tools it produced have raised a great deal of interest in Canada and in Quebec where research and field work had taken place for many years in some kind of cultural vacuum, without a larger frame of reference, to be used for benchmarking.

1. From Plain English to Plain Language to Plain French in Canada

In the 1991, the Canadian government established some general writing guidelines to be found in a widely distributed booklet: *The Plain Language: Clear and Simple*. Its French equivalent *Pour un style clair et simple* is also well distributed and appreciated both in the public and private sectors. The bilingual online version called "Plain Train" has also caught the imagination of other cultures, as it was translated into the Galician language. The stylistic recommendations are included in *Termium*, the "computerized terminology database" of the federal government, as part of its writing aids. Plain Language is therefore part of an effort to standardize official documents by making them also more accessible to all and easier to understand.

At the federal level, French being one of the two official languages, communications are mostly written in English (source language) and then translated into French (target language). Thus, any effort to write plainly in English is bound to be seen in the French text at the translation stage; generally speaking, the Plain English model has allowed some definite improvement in source texts, whether legal or not, and thus made the translator's work easier. Because the translator represents the front line audience, any textual ambiguity, for instance, is usually resolved with the author before proceeding to the translation. The French language being most frequently a target rather than a source language, the Plain English model has thus evolved into a Plain Language model by leading to the creation of a Plain French model in Canada. The application of the English solutions to the French language has been easy, in general, insofar as the English model meets the French audience needs.

At first, the general principles of plain English were not readily accepted by the legal community, whether English or French. Legal writing was not to be treated as lightly as general communications. It took some convincing, along the years, because of the lawyers' reluctance to change their approach to writing. Some statutes have been rewritten to espouse the Plain Language model in both official languages, for instance, the *Employment Insurance Act*. There is still work to do in very technical fields, such as tax and finances. In many other fields of government activities and types of documents, the change has been easier, with the momentum enjoyed by the international movement within Commonwealth and American jurisdictions. Once what was emerging as a legitimate school of thought made some progress within legal circles and found an application in various legal and legislative source texts, there however remained another hurdle to clear in order to make the model really universal: the bijuridical character of Canadian institutions with Common Law and Civil Law.

Civil Law is a factor to reckon with in Canadian legal writing, as far as its particular vocabulary, its logical framework and processes and its linguistic tradition influenced by Latin, all embodied under the term "legistics". Though Civil Law applies to Quebec institutions, the Supreme Court refers to it for interpretation. The French audience is generally inspired by a Civil Law culture, even if the substance of the communication is Common Law. If source texts are often conceived in the Common Law style of expression, on the one hand, the French language used in the translation is often influenced by Canadian Civil Law as a system and as a culture. Because writing and drafting stylistic choices and decisions are made at the source and not at the

target level, the assurance of clarity in the French text is sometimes a difficult task, due to the combination of all factors.

Ontario was among the first jurisdictions in Canada to expressly design its legislation according to the simplified model (Plain Language Drafting Policy) and, French being an official legislative language in the province, French legal translators there apply the principles of Plain Language when they are followed in their source text. Their work being the translation of Common Law into French, they are not impaired by conflicts of law as they have no Civil Law tradition to take into consideration, both for lexical and syntactical purposes. However, to write plainly, they must still be aware of the influence of both legal systems and linguistic traditions. In that respect, Canada as a whole, including the input from two other Common Law bilingual provinces, namely New Brunswick and Manitoba, has now gained international recognition as a producer of Common Law in French; its hybrid style relies on a legal and non-legal French lexicon, to a large extent inspired by traditional French Civil Law from Canada and Europe, and on an original specialized lexicon, specific to the Common Law context.

In Quebec, where French is the official language and English a target language, the acceptance of the Plain Language model, in spite of its acknowledged value, has been slower at the implementation level. However, the Quebec government had very early demonstrated its concern for clarity and user-friendliness when the *Ministère du Revenu* (Ministry of Revenue) entrusted the simplification of Quebec tax forms to an American firm, Siegel and Gale, in the 80's. Sine then, administrative writers, first, then, social workers, literacy and community stakeholders, and, more recently, legal writers have become more and more convinced by the innovative graphic and stylistic solutions put forward by the Plain Language movement as an efficient way to reach one's audience. The advent of information technology and the need to include less able readers played a major role. Plain Language is now well received due to its grass-roots appeal and is referred to in some academic programs, mostly in the field of communications.

The movement for Plain Language seem to have taken more time to catch the writers' and lawyers' attention in Quebec for two reasons:

- First, the main player on the cultural scene, that is France, was rather indifferent to the phenomenon. And this is still largely the case, in spite of the recent government initiative with the creation and implementation of the COSLA project. The name of the entity is self-explanatory : *Comité d'Orientation pour la Simplification du Langage Administratif* (Committee for the simplification of administrative language) However, pressure for standardization seems to be coming from another level, namely the European Union where French is an official language, and both a source and a target language;
- Second, and that is a major consideration as far as style is concerned, Quebec is a Civil Law province and its legislation, judicial production and government communication are traditionally influenced by the Civil Law writing style; thus, the application of a Plain Legal English model would always require some analysis and adjustments.

How then is Plain Language to be integrated at the practical level in a context of institutional bilingualism?

2. Plain Language and the translation process

As we have seen, in the Canadian federal system and under institutional bilingualism, French is both a source and a target language. Therefore, French is both a language of translation and a language of creation. At the federal level, most communications, including legal documents, are written in English and translated into French. Sometimes, they are co-drafted in both languages, each author writing in the language of choice. In Ontario, New-Brunswick and Manitoba, legal and administrative communications are translated into French, not co-drafted. In Quebec, government communications and those of the private sector are generally written in French and translated into English and the Civil Law system applies. Bilingual or even multilingual text production is mostly done through translation, co-drafting being the best but the most expensive alternative as it requires more resources.

For the production of bilingual legal documents in Canada, we may distinguish four (4) situations:

In the **first,** and ideal situation, which occurs only rarely, a bilingual legal writer, trained in both Common Law and Civil Law and who is also a supporter of Plain Language, produces alone a readable document in both English and French. The substantive content is the same as no jurisdiction offers Civil Law for the French-speaking and Common Law for the English-speaking. Given the level of expertise of the author, the texts produced will be equally readable in both versions, more precisely, the French text will be as clear as the English because the writer strives to obtain an equivalent quality in both. When the text is of a legal nature, both versions should be identical in their effect.

In the **second** situation, the legal writer is not bilingual and is helped by a legal translator. The legal writer who works in English or French is aware of the Plain Language requirements and aims at producing Plain English or Plain French at the source level. Then, the translator will be handed a "plain" original and supposedly produce a plain version in the other language. The importance of Plain Language training for the translators appears obvious as, in this case, they must be aware of the efforts made in the source text to make it plain and replicate them; for instance, as far as length of sentences and paragraphs, choice of non-technical words, clear definitions, short titles, interrogative titles, avoidance of passive, negative or archaic forms, general structure, spelling, adaptation to the audience, amongst other aspects. This joint effort results in two equally readable versions of the same text. When the source text is plain, clear and concise, the target language product matches the level of quality.

In the **third** situation, which happens unfortunately, the writer is not a supporter of Plain Language as opposed to the translator who is; the latter, being a professional, judged on the quality of his or her writing, strives to produce a clear and simple text. In this case, the translator will be mindful of the clarity in the target language and make every effort to produce a plain text that does not betray the unplain source text. However, when the source text is not written in Plain Language, or is in breach of some Plain Language principles, the translator runs the risk of

"betraying" the author's style if, in his or her search for clarity, he or she makes some adjustment that go beyond the source text. For that reason, translators generally tend to stick to the structure, style and form of the original document, regardless of the results.

In this situation, by far the most frequent, the responsibility for clarity is not obvious. It is often difficult for translators who are aware of the Plain Language requirements and often judged on the clarity of their production not to reproduce, however, in the target text some stylistic defects that result from deficiencies in the source text. Overuse of Latin or archaic phrases, for example, is condemned by both supporters of clarity in French and supporters of Plain English. If a translator chooses to avoid using Latin phrases or archaic expressions (in French or in English) in order to make the translation more readable, that decision, while ensuring the quality of the target text, has usually no bearing and does not improve the source text. In law, as the substance of the original text is not to be diverged from, there are cases where the formal aspect is so important that even the number of periods in a paragraph may be imposed to the translator. Can translators then be held accountable for clarity?

In the **fourth** and last instance, neither the writer nor the translator are supporters of Plain Language. The translator still has an obligation of clarity, due to professional standards, but the search for quality in this case will take place within the strict structural and lexical parameters of the source text. The readability level is usually higher in this case in the translated product but the contrary may very well happen, as an unplain text may be difficult to understand, even for the translator who then must consult the writer to clarify meaning. However, meaning in this case is not the only variable because structural and syntactical choices may also cause problems.

We therefore see how important it is for the non-English translators to be aware of the Plain English model requirements in order to offer at least the same level of clarity in the target language and, failing the cooperation of the source language writer in that respect, of the limitations encountered. Source texts play a decisive role in the quality of translations and texts that reflect Plain Language solutions allow for a greater quality in the target languages. The original situation of Canada comes from the fact that the French language is also a source language in many instances and its clarity, or lack thereof, is key for the English translator.

3. The universal appeal of the Plain Language model

Plain English writers have developed a body of knowledge that refers, for a major part, to common universal rules for good writing, and legal writing in particular. English and French legal writers, regardless of the legal system in which they operate, do agree on some writing principles. The resistance encountered in an English-only or multilingual setting stems mostly from the fact that the examples put forward to establish some principles of clarity are rather extreme cases of poor writing. True enough, good writing techniques are universal and it could be very useful to reiterate them and draw a common protocol in that respect, along with a thorough examination of diverging rules.

The principles may be summarized as follows: respect for grammar, correct spelling, accuracy in choice of words, logical choices in vocabulary, syntax and structures, conciseness or consistency. As far as reader-friendliness, most writers are in agreement on the goal but some, in both cultures, find it hard to see the law but as a formal system that is not designed for the layperson. There lies the original contribution of the Plain Language movement: the promotion of clarity through the clever use of all the resources of the language and of the technology to ensure optimal access to communications, whether legal, technical, or general.

However, due to recent efforts to provide good indexing, hypertexting, tables of contents or numbering, for instance, the design and layout of the law have also evolved as is best illustrated by the Australian tax legislation. With respect to the formatting of legal texts, the introduction of computers has brought a greater standardization of spelling and typography, and the creation of easy-to-use templates. Research done on appropriate colour use, pictograms and highlighting techniques to improve readability leads to converging results, both in English and French. Canadian writers and lawyers may very well agree on the means to attain clarity, be it through vocabulary, syntax, structure or design, as proposed by the Plain Language movement, while noting the constraints resulting from different linguistic or legal systems.

Although the abovementioned principles do exist in the French culture, there has not been a deliberate movement or will to incorporate them in a framework similar in its scope to the Plain Language model, in spite of some attempts made in the late 60's and later. Some academics in France had tackled the issue of clarity in communications, in their search for " readability", namely François Richaudeau and André Timbal-Duclos . They respectively had examined teaching manuals and journalism, with a view to promote efficiency and clarity in the written language. Their definition of clarity, although limited to their areas of work (education and medias), is still considered valid by French communications teachers. According to a French definition of clarity by Richaudeau, for a text to be readable, it must be actually read, it must be understood and it must be easy to memorize. "Readable" also means "easy", "clear", "transparent" as well as "intelligible", "understandable". The key words used to describe the search for clarity in Plain French are: « *lisibilité*», « *style clair et simple* », « *langage clair* », « *langage courant* » or « *langue courante* » .

The above works did not refer to the general issue of legal and administrative writing. Some publications within the French civil service made mention of the English research on clarity but they did not have a great deal of impact on public documents and the need to simplify, amongst others, legislation, court decisions and notarized deeds. The link between the academic world and the practical applications of the research and its policy implications was never made officially in France, until recently, except for some historical stance of Napoleon on French law and limited initiatives. In Quebec, the situation was about the same as the universities have generally had little impact on government or private sector writing. The grass-roots movement that expressed an interest in Plain French was moved by literacy and adult education concerns which reduced the scope of any intervention. The closest the French speaking population came to the "Rudolf Flesch culture" was through the introduction of the spell checking software and the Fog Index assessment scale in Word 2000, some innovations that may not be all that useful in the French context.

An interesting exception to this cultural distinctiveness may be found in Belgium where the government indicated the need to simplify public documents in the late 90's with the publication of *Écrire pour être lu*, a general style guide by Michel Leys, which is quite similar to any equivalent work in English. The book is available on line, as the French language document that explains the Fight the Fog Campaign within the European Union.

With the recent online publication by the French government of the tools designed by COSLA, things are bound to change. It is the sign that a genuine change is coming, based on the culturally inherent trait in favour of equality of opportunity. The efforts of the French Committee are inspired by a true will to reach out and include and the work that was accomplished will certainly have interesting repercussions on the way public communication is made. It may also lead to the production of new style checkers and "simplifiers". Among the tools made available free of charge, a lexicon of administrative vocabulary, a guide to administrative writing and the LARA style checking software where readability and Plain Language are the rule. The project has produced significant results as a great number of administrative forms have already been simplified.

The impact of the research and policy developments in France have yet to be analysed in order to conclude to the birth of a Plain French movement. The project had a limited scope, namely administrative forms. We are far from a general and multidisciplinary enterprise to revamp official and legal communication. French legistics, for instance, has yet to benefit from the innovations. In that respect, the recent publication by the European Commission of the multilingual *Joint Practical Guide for persons involved in drafting legislation within the Community institutions* will constitute a precious source of information regarding the integration of a Plain Language model in legal writing and the impact it has on French legal writing principles. Besides, there is already a great deal of experience of legal simplification both in the Canadian and the Quebec jurisdictions from which interesting examples may be drawn. Apart from the Canadian need for more French contributions to strengthen the foundation of a French model, all Latin languages may have a definite interest in the debate and the solutions offered.

The stakes are high, considering the importance of the Spanish language as an official language for translation within the context of the *North American Free Trade Agreement* (NAFTA). Its presence has yet to be fully noticed but demographics may pay a key role in the future. Latin audiences will need the same adjustments to a Plain Language model as it has been, and is still the case for the French culture. The similarities do not end there as Mexico, within NAFTA, and Latin America are subject to Civil Law. Therefore, any reflection on the value and limitations of the Plain English model for French is bound to find applications in many other Latin languages. A thorough review is to be made of the techniques and principles cherished by Civil Law writers and drafters in order to come up with a French and, more generally, Latin model which will help standardize the analysis of issues and the solutions. We may find that universality of goals and results is ensured but with some necessary compromises.

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