

Plain Language Court Forms and Cognitive Linguistics

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Like many other countries, the United States of America has had a Plain Language Movement for quite some time. From the early developmental work of Rudolf Fleisch to the Carter Administration in the late 1970s to the modern Access to Justice Commissions at the state level, developing plain language legal documents has been a major objective of those seeking to provide better justice for people who cannot afford their own legal representation. Much scholarly effort and research has gone into trying to perfect formulas for creating and judging plain language documents. Yet the practical work of creating plain language documents still requires significant amounts of field tests. Plain language translators often have to rely on intuitive judgment to improve their product, trying to retain legal meaning, but making it accessible to those who do not understand legal discourse.

The author, a worker in the field, maintains that the work could be greatly improved by incorporating the theoretical underpinnings of cognitive linguistics. This poster is meant to encourage linguistics research in law at the level of access by those not trained in law. Using plain language family law court forms as examples, the author notes these examples of plain language devices that employ advances which have cognitive linguistics explanations:

- \$ Smaller words are typically basic level terms that have broader, near universal understanding.
- \$ Bulleted and checkbox lists break up several levels of sentence hierarchy into cognitively understandable chunks.
- \$ Steps in forms switch the usual syllogistic logic of court forms into ones based on the SOURCE-PATH-GOAL cognitive metaphor.

Furthermore, the author maintains that legal discourse is itself nothing more than a series of routinized conceptual blends wherein lawyers often dwell on the “penumbra” areas of meaning, but most cases, and most lay people’s needs, fall within statistically probable factual interpretations.

The U.S. National Science Foundation has begun to take an interest in empirical research in American civil law settings, including such significant areas as plain language forms, court interpreters, and what is known to legal aid organizations as “cultural competency”. The aim is to gain statistically significant data in response to tested hypotheses.

As of now, however, the field of “justice studies” lacks solid theory. Most work so far has been driven by simple business-oriented cost analysis. Attempts at developing researchable hypotheses revolve around “empirically based information”, which this author contends is simply an attempt to use statistically valid testing to prove common sense notions that have no core theory. While these advances are helpful within limits, they ultimately fall victim to the need to parse out data which contains too many variables and no theory upon which to hypothesize which variables are significant.

The author believes that the field sorely needs second generation cognitive science, and in particular, current cognitive linguistics theory, to bring it up to modern scientific research capabilities. Opportunities for empirical research abound for cognitive corpus studies, textual discourse studies, and cognitive aspects of sociolinguistics. The author will also discuss places where RFPs and grants can be found.

References

Recent NSF award to American Bar Foundation, Award Abstract #1237958, WORKSHOP: Access to Civil Justice: Re-envisioning and Reinvigorating Research, Chicago, IL, Fall 2012.

<http://nsf.gov/awardsearch/showAward.do?AwardNumber=1237958> .

Dyer and several others, “Improving Justice and Saving Money: Plain Language Family Law Court Forms in Washington State,” *Seattle Journal for Social Justice*, vol. 11 (Summer 2013, *forthcoming*).