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Plain English Movement: An Analysis

ISAINEE BHUPATHY RAAJ¹

ABSTRACT

The plain English movement is a needed movement in across the globe to revise all the legal documents into plain English as any normal person can understand. It is existing for more than 5 decades and its progress consist of many ups and downs. Many countries have taken a step forward to develop and taking serious actions to bring in the usage of plain English in legal documents. This paper mainly deals about the criticism passed and will possibly suggest ideas relating to some of the issues applying in the plain English movement. This movement was started due to the disadvantages and criticism evolved in complex legal English. As legal documents and consumer related information having more complex terms as the public lacked clarity and conveyance of perfect applied information was not delivered by the current legal English people wanted a plain English movement to ensure that they can know the information in a clear and a simple way.

Keywords: plain language, movement, lawmakers, legalese

I. INTRODUCTION

The plain English movement was one of the oppressing movements across the world firstly started focusing on the consumer law perspectives. It was the first step taken to start a change in an already existing massive field to draft every legal document as any person can understand and can be given full details in a clear way. Then it slowly moved on changing the insurance policies by implementing legislations in plain English. The plain English movement is a movement against specialized terms existing in many fields including particularly legal fields. Its aim is to have a simple and clear terms as every people can understand instead of complicated and legalese terms. This movement took place by the people all around the globe and mainly in UK, New Zealand, Australia. This movement is in action for more decades. As a part of movement, many researchers and scholars started expressing their opinion to the lawmakers and the authorities as being a voice of the people. But on the other side plain English movement is influencing many parts of the society in its own way².

¹ Author is a student in India.

² PeterTiersma, The Plain English Movement, <http://www.languageandlaw.org/PLAINENGLISH.HTM>

According to Kimble, “plain language has to do with clear and effective communication—nothing more or less. It does, though, signify a new attitude 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 obscurity”³.

II. HISTORY OF PLAIN ENGLISH MOVEMENT

The plain English movement started in 1970s more in UK colonies when the problem of using legalese has become a major issue. Many people started to support, found this could change and reduce the difficulty so, among the common people some people represented them to the lawmaker the need for this movement and advantage of it to the normal people. Many scholars started writing books about the plain English movement and even conducted study. In 1931, Tyler and Ralph Waples conducted a 2-year study and published a writing related to it titled as “What People Want to Read About”. Continuing which William S. Gray clubbing up with Bernice Leary and released a book named “What Makes a Book Readable”. When we see in the recent decades many there were many surveys conducted to make the people reading feel more comfortable and make awareness to the movement. A book created a main impact on this plain English movement in the United States titled “Language of the Law” by David Mellinkoff and “Plain English for Lawyers” by Richard Wydick. By this the movement was hyped among the normal people. That’s the time where this movement was changing the aspects in consumer rights, contracts and insurance policies. Even many law schools started encouraging students studying law to learn plain English without using legalese⁴.

After those events the plain English movement had a progress in their growth where they were being fit in the societal changes. The president Richard Nixon announced “Federal Register be written in layman's terms" and in few years it was executed and that was called as “written in plain English and understandable to those who must comply with it". Seeing this many countries followed this was of developing the progress of the plain English movement globally. And in 1990s Plain Language Association International (PLAIN) was created to be a medium serving for this purpose where it was an organization in Canada. at the same time the president ordered to use plain English language in all government official documents. PLAIN played a major role in developing the usage of plain language where the president Barack Obama implemented Plain Writing of 2010 to revise all the government documents

³ Dale Barleben, *The plain English Movement and Present Day English Registers*, <http://homes.chass.utoronto.ca/~cpercycourses/6362/2/Plain.htm>

⁴ 6 Can. Bus. L.J. 408 (1981-1982)

with legal language into plain English language. The plain language is having a force in the courts and it was resulted in a study that this plain language was most understood by the normal people. From those times this plain English movement have progressed with many ups and downs and resulted in a change in the world⁵.

III. ROBYN PENMAN'S CRITICISMS ON PLAIN ENGLISH MOVEMENT

As The Plain English Movement arises across the world there were many criticisms regarding this movement and one of the major and impacted criticism was from Robyn Penman who is an expert from Communication Research Institute of Australia in Canberra which was absolutely a major part of criticism for Plain English Movement. As a part, she has also written her thoughts in journals named "Plain English: wrong solution to an important problem". Penman's criticism in a short term is that this movement will pave the wrong way and it destroys the reality and professionalism in the legal language. Hence, she had series of critical thought regarding plain English. Penman's criticism initiated from the very beginning that is from the meaning itself. Penman criticises the definition as it lacked clarity and the main area is not highlighted where it has to be. As plain language is of a clear and simple terms but it abolishes many traditional and complex words that are actually framed for a particular reason legally. Then penman comes to the value of the words mentioned in a document. It should have standard as these are but where are plain English does not have standard and value in any legal documents and according to penman plain English gives vagueness and lack of perfection where standards are needed the most. Penman mentions the eligibility of plain English as only simple and clear terms without any perspective of the whole idea behind plain English movement. Penman also mentions that only clarity and simplicity is not completely enough for a legal document, it requires and prefers more ancient type of professional words to improve standard in legal documents. But according to penman, in plain English there can be only short, simple terms which will not have any standards⁶.

Penman also commented on a United States Regulation that as it contains only 141 words in total, the people reading this regulation will not have a complete and entire understanding about the regulation whereas it is destroying the legal standard and it will take of the neediest part in it. So plain English has to taken seriously as it fades the traditional part of legal English.

⁵ Clauss, Hannah Bradford, "The History of The Plain Language Movement and Legal Language and an Analysis of US Nuclear Treaty Language" (2020). Chancellor's Honors Program Projects. https://trace.tennessee.edu/utk_chanhonoproj/2380

⁶ Andi Syafrani, Plain English Movement and Penman's Criticism to Strengthening the Movement, SALAM, 77, 79-83(2018)

According to Penman, when it comes to the style of text in plain English, it is only about the words that consist of i.e., how precise the sentence should be and how the terms can be easily fit to the sentence. But this does not concentrate on the readers perspective where they also have to entirely accept it without any lack of details. The plain English usage should not be only for reducing the use of the legalese, as it has ruled the legal documents traditionally but also useful for the people using it.

As a next step she comes to the proof part that she ignores the success of plain English movement, where Penman mentions the lack of proof for the success was not clear and this fails the movement globally. There were not enough happenings to bring up the movement and this plain language plays a middle role in law and documents that are drafted legally. Penman was so sure in her opinion that this plain language movement will never reach a success point as there are major issues floating in the plain English. It reduces the capacity, standability and of the legal documents immensely. There are also people who are not aware of the simple terms used to describe laws so again obviously there will be a client lawyer relationship. So professionally in every case, even if there are a plain English document people need a lawyer's guidance. Supporters of plain English movement cannot reduce the usage of literature and traditional legal words for an unsuccessful movement⁷.

IV. ISSUES RELATING TO PLAIN ENGLISH MOVEMENT

As mentioned there exist many issues in this plain English movements, whether the professional legal language can actually be interpreted in plain English? So, a result everything can be explained in simple terms to make normal people understand. When we deeply see issue, there is an ultimate reason for framing a complex word that can be used for legal documents. So, if those words were explained in simple terms, then there will be a breakage in the understanding result which will obviously be in a step behind of perfection. Also, if we consider both plain English and legal language, the words for legal language is solely formed for the specific meaning which will define its meaning at one stretch but unlike legal language, plain English is a simple and precise term. Considering the fault occurring in this issue is more likely to the plain English and its because legal language cannot be misled or can be understood in a wrong way but for plain English there are many chances of being misunderstood by interpreting the term in the way of writing technically. There can be no chances of reducing the technicality which is applied in the nature regarding law while

⁷Andi Syafrani, Plain English Movement and Penman's Criticism to Strengthening the Movement, SALAM, 77, 79-83(2018)

expecting standard⁸.

Whether this plain English language can influence the statutes? It cannot be decided as easily because every statute is evolved legally to create a impact in the society with professionally made terms for a specific reason. Everything which has standards will always have a difficulty in understanding. However, now many bills and rules have initiated to move forward the movement it still need assistance and a lot of debate by the law makers and the people representing the movement as it is a bit more complex. Legal language cannot be suppressed easily, and to implement it hard initiatives are needed as the words are hardly created to be complex. Hence this liberty of using simple terms in the statues must be handled carefully with abolishing the aim of the movement⁹.

Is plain English movement being still a movement? As plain English movement is evolving with up and down in speed, now it's the time to look at that is it still a movement. Because according to a fair point, considering the movement it has moved forward to make a change in the language. Plain English movement has become an essential part where it involves consumer interest, it also influenced insurance policies and in some contract documents. So, this has crossed the word movement and lead by many people to take it seriously. The plain English now has a role to play and make it perfect as it can for the people. In simple words, we can say it is in a testing phase and the results are the changes happening regarding the plain English and people welcoming it where several governments are in a situation to implement it due to massive public interest¹⁰. Nowadays, plain language is a easy way for law firms to get a client. This plain English makes the communication between both easy and clear. If not by using a legal language lawyers can convey the information that can only be read and understood by a lawyer or with a law background. This will make the normal people suffer to get the perfect information that they have the rights to know.

V. PLAIN ENGLISH MOVEMENT IN INDIA

Mainly, in India laws are not so easy to understand for the normal people as in contains complex terms which causes confusion. Because of not taking the plain English movement seriously in India there are many less capacities for reader to understand. By comparing with other countries India does not have a step forward in achieving the movement. Whereas many

⁸ David S. Cohen, Comment on the Plain English Movement, 6 Can. Bus. L.J. 421 (1982), <http://digitalcommons.pace.edu/lawfaculty/448/>

⁹ Christopher Williams, Legal English and Plain Language: an introduction, https://fac.ksu.edu.sa/sites/default/files/williams_2004_legal_english_and_plain_language-libre_0.pdf

¹⁰Peter Butt, What is plain language law and why use it?, <http://www.lawfoundation.net.au/ljf/app/&id=2FD34F71BE2A0155CA25714C001739DA>

non-governmental organizations are taking up this drafting process in plain English movement seriously to ensure to make it away from legalese. While speaking about the timeline, the present situation has many developments in modern technology and so accessing the laws and understanding it a bit easier comparingly. But even though thinking about India there are many states and many regional languages. So, the best to make them easily engageable is by giving them access to laws in plain English and also can be concentrated in their regional language. for example, judgements passed in every Indian case does not make every person to understand as in contains jargon and Latin terms. So, by obcluding the complex legal words the main aim can be achieved. As a step o for this movement, in the year 2018, Lok Sabha introduced the Drafting of Law in Plain Language Bill, 2018 for clear, clean and simple should be used to draft any legal documents, acts and bills. This bill mainly explains every term related to the issue and mentions the procedure for drafting in plain English with guidance so that every citizen can understand it with full information applied. The main need for this in India was mainly for as people cannot bear the consequences caused due to the misunderstanding the law and paying for it. There should be an effective reason and for a successful change this bill is needed to give an easy participation to the citizens in the country¹¹.

VI. CONCLUSION

When speaking about the future of plain English language, many countries require more developments regarding plain English language. Even there has been penalty relating to this plain language issue, that is in the year 1983 the court said the law firm to pay as a certain amount of penalty for using legal language in a document¹². When we see for certain countries, plain English has developed but Canada do not have any legislation regarding the use of plain language and in the United States many countries have initiated the legislation to take care for the people reading and for the sectors it is mainly needed. Remaining countries have not announced any legislation regarding this plain English language. As this plain English language has influenced many areas like consumer rights, insurance policies and in some contracts, it also has to be moved front and be applied in still many more legal areas where it is deals specifically. There is many evidence for the word progress in the plain English language movement and they are, in the year 1973 Citibank in New York announced to use only plain English language by using simple terms and reducing the length than the

¹¹PLAIN ENGLISG, <https://www.encyclopedia.com/humanities/encyclopedias-almanacs-transcripts-and-maps/plain-english>

¹² 6 Can. Bus. L.J. 408 (1981-1982)

original length, this was taken up by the media and was popularized. In the year 1976, the Canada's Drafting Workshop started to achieve the goal comparing the last event consisting of amendments and in many places in the country it is being taken openly. In the year 1987, Australia Victorian Law Reform Commission Report initiated one of the main steps in using plain English language which contains few suggestions for drafting in general which took this up. In the year 1994, a document was published named 'Rewriting the Income Tax Act' which was released by the revenue department in New Zealand which created an impact in plain English language. In the year 2006, the Scottish parliament wanted a change in the style so there was an online booklet released named as 'Plain Language and Legislation' which obviously helps in modifying the legal documents into plain English language. And lastly as mentioned before in the year 2010, US plain writing Act was implemented which took the plain language movement to next step and it also shows the interest and benefits in plain English writing¹³. As a part of present, the movement has so developed and it will continue to be because of the progress the countries made above explains it all. The future for plain English is at the top stage because of the aim is being incorporated evenly and purposefully which spotlighted on the readers.

¹³Dale Barleben, The plain English Movement and Present Day English Registers, <http://homes.chass.utoronto.ca/~cpercyc/courses/6362/2/Plain.htm>

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