

# Pixs and Stones: Comparing Legalese through a HEL Lens to Innervate Our Composition Courses

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**Abstract:** Comparing legal, policy, and statute writing—from stone records of ancient Britain civil servants to opinions of the U.S. Supreme Court—this article demonstrates how weaving threads of textual language variation and change can innervate writing in the disciplines and history of the English language courses, particularly courses designated for general education. We describe and illustrate our use of rhetorical theory and linguistic analyses to develop our students’ soft skills, i.e., ideals of liberal education, and their applied skills, i.e., professional competencies, which lead to better employability. Specifically, we use the paralogic rhetorical theories of Thomas Kent (1993; 1999) to demonstrate the opaque relationship between language and meaning aided by the use of linguistic analyses—register-specific lexical choices, discipline-dictated syntactic structures, occasionally morphological and phonetic variation, and the principles of language change. We present three lessons focused on the use of legal texts that build strong citizenry through increased understanding of writings that serve as social contracts and by which students learn and practice professional codes, employ new tools such as AI, and practice presenting and responding to different perspectives centered on difficult social problems through the ages (e.g., slavery, racial inequity). Aptly, we conclude with a call for joining these two approaches as a productive pedagogical and research collaboration as the world of texts and oral data could be better examined through such dual perspectives.

## Introduction

This article demonstrates the potential to innervate both writing in the disciplines (WID) and history of the English language (HEL) courses by combining composition and rhetoric pedagogies with those from linguistics. Specifically, we unite methods and, subsequently, design tasks drawn from paralogic rhetorical theory and linguistics using disciplinary-specific texts from students’ primary fields of study. These texts serve as specimens to analyze; they are model writings that illustrate both linguistic and rhetorical examples of register (i.e., writing types first associated with spoken varieties, see Halliday, McIntosh & Strevens, 1964; Corder, 1973, professional writing and, specifically, legal writing, see Trosborg, 1991). As expectations and changes occurred—societally and linguistically—over time, these texts allow us to exemplify critical analyses of ideas and identify linguistic choices for purposeful and effective writing (or the contrary). Here, we illustrate using the register legal writing, or legalese. By blending our discipline-specific methodologies, we attempt to reconcile two shared pedagogical goals: we build our students’ soft skills, those historically associated with higher

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education, such as the formation of students' critical consciousnesses, higher level reasoning, and autonomous learning,<sup>1</sup> while simultaneously strengthening their applied skills or professional competencies, such as multimodal communication abilities, adaptability to changing technologies, and self-efficacy. In other words, we use our courses to help students become thoughtful citizens and successful professionals. These two outcomes have been in tension within higher education (at least) since the post-World War II increase in public universities and their widened net of undergraduate student populations, and while this tension ebbs and flows, presently, we find ourselves experiencing a particularly tense period. As faculty of a public university, particularly a regional campus, we find ourselves forced to develop, articulate, and advocate for our ability to create both a strong citizenry and workforce—to our students, to our state legislature, and to the public. Presently, the latter goal is seen as the privileged outcome (Causevic, 2022). The collaboration we present here arose precisely out of our discussions of the increasing institutional, political, and public challenges we face and our attempt to successfully achieve both outcomes, an experience likely shared by many of our readers (see Tough, 2023a, 2023b; Belkin, 2024). The result of these discussions led us to blend pedagogical methods that more equitably facilitate the outcome of both goals, and we are hopeful our readers find useful ideas for their own courses.

As our article unfolds, we include the context within which we teach and a brief history of the tension within higher education between the focus on soft and applied skills. We next describe our shared methods drawn from paralogic rhetorical theory and linguistics (i.e., diachronic lexical and structural analysis). We provide a rationale for our choice to focus on legal writing with helpful descriptions and definitions. This and the short background on our individual courses are meant to facilitate our delineation of the two condensed lessons using the same legal texts as they appear in our WID courses and in Stickle's linguistics course. We then provide a lesson that demonstrates our combined methods. We end our pedagogical discussion with the potential use of additional texts, including how the employment of AI affects discussions of legal writing. Lastly, we describe how this approach not only helps linguists and composition and rhetoric scholars use texts, textual artifacts, and corpora of texts in their classroom to engage students across disciplines, but how this work also serves as a call to join these two approaches in productive research agendas, ones that document its pedagogical effects and provide new perspectives on change and variation within the legal writing register.

## Impetus for our Collaborative Approach

### Institutional Context

Our institute is a regional university located in the Southeastern United States. Our student population is composed, mainly, of students who grew up in the area or within its tri-state border. Our population is largely from low to mid socio-economic homes, with one-third first generation college students. Statistics from our 2022 demographic report reveal 17.3% of our students identify as underrepresented minorities, an increase from 2018's report of 15.5% (WKU Fact Book, 2023). As we compete to draw students to our campus, we are challenged by our institution to a) reach out to the community and meet with high school students and their parents, b) ensure our courses meet students where they are—academically and developmentally—in order to build their soft and applied skills, c) create more inclusive environments in our classes and on campus, and d) actively recruit students and work to retain them. As faculty, we must balance these requests with usual academic work, such as our obligation to prepare our courses creatively and with relevant new materials; to be available for the students already in our courses; to remain active scholars in our own fields; and to participate in other service-related obligations. And, while this list is likely no surprise to our readers, it is largely the reason the authors devised ways to teach that we believe optimize our efforts toward these goals.

Both authors routinely teach a WID general education course provided by the department of English. Our WID course is the third and final composition course required within the general education writing sequence (i.e., Introduction to Composition, ENG 100; Introduction to Literature, ENG 200; Writing in the Disciplines, ENG 300), and teaches students how to research and write argumentative essays for their major area of study. All undergraduate degree-seeking students attend a department of English WID course unless they transfer in an equivalent course or choose to take a discipline-specific equivalent course as provided for majors in the departments of communication, geology, or psychological sciences (respectively, COMM 200, GEOG 300 or PSYS 300). Consequently, each ENG 300 WID course is attended by students representing the array of university majors. Additionally, while our WID course is coded for juniors, our classes are routinely populated by both lower-level ranking—including first year students—and upper-level ranking undergraduate students. This is increasingly true with the influx of freshmen entering the university with dual-credit (Department of Education, 2022) or AP-accredited exam scores (College Board, 2024) that fulfill the required prerequisite introductory college composition and literature courses, which then places students into ENG 300 during their first or second semesters. Other students often wait to take their ENG 300 near the end of their undergraduate degrees. For the WID instructor, these factors make choosing content and level appropriate skill-building materials ever more challenging.

Similarly, our department's HEL course is located within our upper-level general education course selection, and as a 400-level course, is designated for students who should have attained the requisite foundational skills: critical thinking, a breadth of knowledge in world history, and evidence of both analytical thinking and writing ability. Our HEL course (recently renamed Global Englishes) aims to provide students with an awareness of the local and global, social, political, and other forces on language development with English serving as the case study. To register for this course, students must have completed 21 credit hours, but these hours are often fulfilled on admittance, again by dual-credit courses or AP-accredited exam scores, making the HEL population parallel to that of our WID courses, i.e., students of different disciplines with a vast range of both college experiences and the skills required for textual analysis, information synthesis, and level of writing proficiency. It is these institutionally-shared challenges that initiated the authors' conversations on what learning and skill-building opportunities our courses—WID or HEL—should provide students within our gen-ed program, and how we, as instructors, can best facilitate their academic development. In the process, we discovered a shared vision of the present-day public university's role.

### **The Role of the Modern University (A Role that Hasn't Changed Much)**

The role of the university has been hotly discussed, largely after the introduction of the GI Bill, post-World War II, which increased the opportunity of higher education to a more diverse student population. To date, high school graduates who attend a two- or four-year college have grown from 15% pre-World War II (Hanford, 2024) to 61.6% (Hanson, 2024). This increase is partly responsible for tilting higher education's role toward utilitarian outcomes over epistemological ones. Thus, one tension arose between education for education's sake, i.e., the development of soft skills such as an appreciation for art, literature, historical analysis, and the formation of one's critical consciousness that ensures a free citizenry and the practical acquisition of job market skills (Kerr, 2001).

Moving to the present, the increased pressure on universities to put out workers with employable skills by business and industry has never been greater. According to a review on employability, career readiness, and soft skills, Causevic (2022) shows that students and parents, as well as business and industry, are demanding a return on investment measured by employability. These demands have resulted in decreased funding of institutes and colleges of liberal arts and humanities and increased funding for institutes that offer fields of study directly related to professions. However, while the many tethers—financial, public opinion, and governmental support—are constraining

faculty, the one measure of freedom that exists within faculty's control is course design, albeit not without its own set of constraints.

Faculty members who strive to satisfy both liberal education and employability goals must often struggle with this tension in myriad ways. Content aside, time and energy constraints war against innovation and design. We must complete sufficient departmental, college, and university duties while maintaining a continual stream of scholarly work. We feel our situation has become more uncomfortable considering we no longer feel the public's or our government's support, and, consequently, we are expected to do more with less, both in terms of financial compensation and time. Still, we wish to make it clear that our aim here is simply to show our attempt to accomplish both goals and in ways that conserve time and energy while yielding desired effects. We believe our approach illustrates one type of course design that serves as a cohesive bridge between our courses as well as within our department and the university structures. We, as faculty, benefit in the conservation of time, classroom success, and comradery.

## Developing a Collaborative Approach

In our discussions, we found that we shared the desire to create classes that attempted to achieve the dual goals of liberal education and employability. We were particularly attuned to our student population and the challenges presented within courses composed of students from many different degree plans, and whose vastly different skills and experiences challenged our course trajectories. Since we both came to higher education thirsting for what a liberal arts education promised, we hoped to offer our students opportunities to wrestle with the big questions of life without feeling underprepared or feeling that they did not belong in our classes or at the university. We also wanted to expose them in our WID and linguistics courses to the works that we call foundational literacies—original texts, such as Garrett Hardin's (1968) essay "The Tragedy of the Commons" or William Labov's 1986<sup>2</sup> article "The Social Stratification of (r) in New York City Department Stores" that would help build the foundations for thoughts, question formation, and analysis to engage with such texts in their subsequent courses through verbal and written forms. We hoped that they would experience the college classroom much like we did: each class a window to new ideas and new perspectives, each addressing core human questions. We hoped they would not shy away but, rather, participate confidently, knowing that higher education enriched their lives. Yet, we were finding it increasingly difficult to teach using such original texts precisely because of the variation of student interests, abilities, and experiences. We were certain, however, that through engagement with such texts, their rich content, style, and their historical development, students could access the intellectual resources to develop the liberal ideal of free and thoughtful minds, the original role of higher education (Sin et al., 2019). Unfortunately, our student body was increasingly resistant to working with these documents, and part of that resistance was, we believe, due to many of their insufficient experience and maturity combined with the sheer difficulty of finding sources that provided a common, engaging ground. We found resistance, too, from students who viewed their college experience as simply a job training program, so we consciously attempted to open their perspective on what it means to live an educated life, and we do so with our combined methodology. To that end, our co-development of activities was built upon shared, selected texts to allow our students to improve their academic and professional skills.

## Introducing Students to Legalese

While we use an array of text registers that fit both students' discipline and professional interests, our selection of legal texts is a choice we often use to demonstrate the types of analyses we expect students to accomplish, whatever register they choose for their own projects, so we have chosen legal

writing to illustrate our approach here. Legal writing, or legalese, is a particular register of writing, or type of writing with an identifiable style of lexical and syntactic structures; other registers include historical, medical, journalistic, or literary writing. Legal writing or legalese demonstrates particularly well the peculiarities of register writing and the analysis thereof since its form and features have been delineated and discussed inside and outside the field of law. Hartley (2000, drawing upon Redish, 1979) lists four key elements of legalese, and we see these characteristics as the reason legal writing works for the methods we have developed for our courses. For Hartley, legal writing exhibits the following traits (2000, pp. 1-2):

1. Much legal writing cannot be read and understood by lay persons.

The difficulty of reading and understanding legal writing is largely due to the redefining of words from common meanings to legal specific meanings and to the type of prescribed phrasing or syntax deemed part of the profession. Feng (2012) categorized the many linguistic features that contribute to comprehension problems when reading legalese. The first is lexical choices. This includes reliance on archaic words such as aforesaid and forthwith; here words: hereafter, herein, hereof, heretofore; said and such as adjectives; or the use of witness, in the sense of testimony by signature, oath, etc., as in “In witness whereof, I have set my hand, etc.” or witnesseth, meaning to furnish formal evidence of something, the old English present indicative third person singular verb form (p. 31); the use of French and Latin loan words, for example covenant, reprieve, tort (p. 32); and law tautology or legal language such as demurrer, fee tail, guarantor, laches (p. 33). Feng also notes the difficulty interpreting legalese is due to a syntactic style that yields long and complicated sentences, some as many as 10 lines, and the punctuation of clauses which do not adhere to the standard subject-predicate requirement (pp. 33-34).

We can discuss each of these issues as part of our writing courses as each represents the struggles writers face when making choices that help or hinder the reader, even the morphological processes that give us a word such as exercisable. These topics also have linguistic uses, illustrating concepts of language change, register, word formation processes, and even arbitrary prescriptive rules, past and present.

2. People without legal training have to read and understand legal documents.

Even though legal writing has a prescribed form and internal rules that are not immediately accessible to those outside the legal profession, people need to be able to decode legal writing for many everyday transactions, e.g., business contracts, wills, advanced directives, real estate transactions. We use our common experiences with legal texts and the heuristic analysis students use to work through them as our powerful rationale that garners student buy-in.

3. Much legal writing is unintelligible even to lawyers.

The inaccessibility is what makes the process of unpacking the register an increased challenge, but a challenge that developing writers and budding linguists can wrestle with and learn from, especially given point 2 and the goal of our courses to increase our students’ proficiency in both soft and applied skills.

4. Tradition, not necessity—and a lack of understanding of the audience—are the major reasons that legal language is so obscure.

Though legal writing, like all types of language use, changes over time, and writing conventions nonetheless remain obtuse to even the most educated lay audience. However, members of the profession fail to take steps to make linguistic and rhetorical structures, including the lexicons—words and their rhetorical meanings—accessible to outside readers. Consequently, the study of legalese examples fruitfully allows developing writers to consider both the audience and document

readability. Since the selection of words, their changing rhetorical meanings, and the patterns of sentence structure fall within the study of rhetoric, linguistics, and historical linguistics, such writing allows students to trace linguistic and rhetorical changes, as well as describe linguistic variation, within the context of similar legal writing over time.

## The Benefits of Legalese in the WID and HEL Classrooms

For rhetoric and composition, this historical focus helps instructors (and students) better understand how rhetoric informs legal writing as both a register and as an applied practice. For example, the register of legal writing already assumes rhetorical invention and arrangement in its definitions of *good* legal writing. Although there are various views on what this term means, Osbeck (2012) makes a compelling case that good legal writing is “writing that facilitates legal decision-making” through a clear, concise, and engaging rhetorical strategy (pp. 427-454). Legal writers will make their writing clear when they “consider carefully the purpose of the writing, as well as the needs, interests, and background knowledge of the intended audience when deciding what is appropriate for a particular document, [including when to use precise technical legal terms]” (p. 436). When writing a statute or act, for example, legal writers would need to carefully consider the parameters of the law, including its definitions, scope, effect, implementation, and impact on both legal institutions (such as the U.S. Constitution) and its community stakeholders. Similarly, when writing a different kind of legal document, like, say, a contract, legal writers need to clearly outline both the mutual obligations of involved parties and how those obligations foster and uphold the integrity of the legally binding agreement.

Echoing many of the rhetorical theories found in WID scholarship, good legal writing (i.e., writers) should therefore consider its rhetorical context to determine considerations of scope, audience, and writing style. Conciseness and rhetorical engagement follow suit, with the former balancing brevity with efficiency, and the latter “commanding the reader’s attention” (Osbeck, 2012, pp. 437-442). Efficiency is especially interesting here because it highlights the rhetorical nature of legal writing. Osbeck (2012) writes

Engaging writing makes the reader’s job easier ... just as clarity and conciseness make the reader’s job easier. Writing that does not engage the reader’s attention makes it more difficult for the reader to glean necessary information from a document because it makes the reading process more laborious. And that in turn hinders the reader’s ability to make professional decisions based upon the document.” (p. 442)

Randall (2014)’s article “Tackling ‘Legalese’: How Linguistics Can Simplify Legal Language and Increase Access to Justice” discusses how linguistic analyses of lexical, syntactic, and semantic choices can help make legal writing accessible to its audience—professional and lay—and better ensure that linguistic choices foster justice rather than obscuring it. Tasks that we use to both challenge our students’ and develop their linguistic analytical skills or writing abilities.

Likewise, legal writing is interesting to linguists and those who teach HEL for its very peculiar use of word, structural, and formatting demands. Within HEL studies and within our classrooms, we, like historical linguists, explore the codification of archaic words, load words, and syntactic structures. Or taking a variationist approach, we can look to these standardized or codified forms as a specimen of language variety (i.e., registers).

Pedagogically speaking, both rhetoric and composition and linguistics benefit from adding historic analysis of legal writing, as the study of legal documents across time lets us illustrate to our students the process of change, the arbitrariness of structural punctuation and meaning, the adherence to

conventions of writing, and the need to privilege clarity. For students of history, political science, sociology, business, and, of course, pre-law students, the material is beneficial as both a study of professional writing and content. Yet, even for learners outside of such specific disciplines, the study of primary legal texts has shown to enhance their critical thinking abilities, research skills, and engage with history and culture (Bahde et al., 2014). For instance, these texts allow WID students to wrestle with the notion of writing within the parameters of social contracts and community practices, as well as illustrate how writing changes or creates social contracts or community practices.<sup>3</sup> As within their WID counterparts, these texts provide HEL students avenues to investigate the social and political environments that helped in the selection of language for the creation of such texts—whether old or new, borrowed or created. They also provide evidence of how language changes over time or standardization takes place within a register of language use or for a language.

### “Rhetoric meets Linguistics”: Developing a Shared Method

The challenges—and indeed, frustrations—we faced in straddling the call for critical thinking skills and practical employable skills often collided in our WID courses. As we said above, our WID course has the dubious task of strengthening students’ critical thinking soft skills, while also encouraging pedagogical considerations of transferable employable skills students can use in their future careers. As is the case in many WID courses, rhetoric is often employed to help alleviate this pressure, usually through required readers and/or writing textbooks. These texts rely heavily on a watered-down version of Aristotelian or Toulminian rhetorical practices (Dutilh Novaes, 2022), from which students learn about the rhetorical appeals of ethos, pathos, and logos, and sometimes even learn about how claims and warrants help build and legitimize argumentative structures.

Our students had mixed results with these approaches. On the one hand, they grasped the basic elements of rhetoric and the rhetorical appeals, with some repeating things they learned in high school, while others focused on the easier-to-grasp appeals of ethos and pathos. On the other hand—and perhaps more importantly—we found many struggled to transition these lessons to their WID coursework. For example, some students struggled with the rhetorical appeals because they did not understand how they informed the writing conventions of their academic discipline. Science majors, in particular, questioned how pathos appeal could help them write better science research. Other students had different difficulties. Business and economics majors, for instance, found traditional approaches to rhetoric interesting and valuable, but also believed they offered limited strategies and rarely allowed for inquiry or critical thinking beyond the academic context.

For those who teach WID frequently, these issues are nothing new. Students, regardless of major, often have difficulty learning and applying academic concepts to new contexts. However, as our intellectual and academic responsibilities shifted over the pandemic and post-pandemic years, it became clear that we needed to develop a new approach, preferably one that helped students critically think through the changes they were seeing in both their coursework and their post-graduation careers. And for us, paralogic rhetorical theories provided the pedagogical shift we needed.

### Paralogic Rhetorical Theories

In many ways, paralogic rhetorical theories are the genealogical offspring of rhetoric’s historical skepticism of the relationship between language and meaning (Dutilh Novaes, 2022). Indeed, in his 1993 book, *Paralogic Rhetoric: A Theory of Communicative Interaction*, Thomas Kent argues that “paralogy refers to the uncodifiable moves we make when we communicate with others, and ontologically, the term describes the unpredictable, elusive, and tenuous decisions or strategies we employ when we actually put language to use” (p. 3). In practice, Kent’s theory admits that the

relationship between language and meaning may not work the way we want it to work. The rhetorical strategies we use, our ideas of invention and arrangement, our considerations of style and delivery, etc., are essentially best guesses given what we understand at the time. Sometimes our communication works, and our intended meaning is understood, other times our best guess does not work, and we are misunderstood. Yet, for paralogic rhetorical theory, this disconnect isn't an imperfection of language, nor is it a failure of language's relationship to meaning. Rather, its unpredictable, tenuous nature is a feature, not a bug. This is partly because this disconnect suggests an "attribute of language-in-use that defies reduction to a codifiable process or to a system of logical relations" (Kent, 1993, p. 3). As paralogic rhetoric sees it, language—and its relationship to meaning—always exceeds attempts to fully understand and use it because contingency and context are woven into its very existence. Our best guesses—however steeped in reason, rhetorical strategy, audience analysis, and history or memory they may be—are precisely guesses because we cannot know with any certainty if our communication will be understood. We can only guess, speculate, and hope that we have done enough to ensure that our message will be comprehended. The relationship between language and meaning, in other words, is always-already rhetorical and is always a risk.

For many paralogic rhetoric scholars, this communicative risk offers different ways to understand the relationship(s) between language, meaning, and rhetoric. In contrast to, say, Aristotle's understanding of rhetoric as an analytic that systematically (and advantageously) employs proofs, logical categories, and *topoi*, paralogic rhetoric emphasizes the public, interpretive, and situated aspects of any communicative act (Kent, 1999, p. 1). Rhetoric, that is, "automatically includes other language users" and occurs "among individuals at specific historical moments and in specific relations with the world" (Kent, 1999, p. 2). But it is also an interpretive and situated act, where "we attempt to align our utterances with the utterances of others" and "start to 'guess' about how others will understand, accept, integrate, and react to our utterances" (Kent, 1999, pp. 2-4). In contrast to Aristotle's (1991) definition of rhetoric as "the faculty of observing in any given case the available means of persuasion," paralogic rhetoric foregrounds the possibility of successful communication based on the probability of analysis (p. 70). Understanding that communication takes place in a lived, changing world with other language users means that we can only ever hope for successful communication based on our analysis of the communicative situation at that time. Rhetoric, in other words, is less an analytic and more a heuristic practice.

In pedagogical practice, this means highlighting the contingency of language and writing by making it an explicit factor in analyzing and composing. Rather than focusing on a writer's choices, rhetorical strategies, and how they would translate to the writing process, paralogic rhetorical pedagogy considers the contingencies in writing as part of the composing act. In a WID course, classroom exercises might consider how contextual and informational changes affect rhetorical strategy in real-time. For example, we ask students to study paralogic rhetorical theory and then analyze the following in a humanitarian law article from the *Human Rights Brief*:

- How would an immediate change in scope and context affect the application of register conventions?
- Does information's rhetoricized condition offer different ways of organizing knowledge, writing, and purpose in something like a humanitarian legal article?
- Pretend you are writing the article. How might the unpredictable aspects of language alter your methodological approach to reporting your argument's findings?
- How would you try to account for various contingencies in context, scope, and audience?

In our class activities, students reconcile the contingency of language with the article's rhetorical strategies. Some students, for example, find that an immediate change in audience requires writers



to implement explicit statements of scope in all their written documents. Other students point out how the unpredictable aspects of language help writers see the value of a clear, direct, and simple prose style, especially for something as complex as legal scholarship. Finally, a few students have even pointed out how informational changes ask writers to rethink the roles search engine optimization algorithms play in developing search terms. While classroom discussions vary, most students start to see how the heuristic aspects of paralogic rhetoric help minimize the risk of misunderstanding. These lines of query within Rice's composition courses dovetail with the sociolinguistic and linguistic approaches Stickle uses in her HEL courses, allowing us to borrow from each other, as we will demonstrate below.

## Using Thematic, Diachronic Texts Within the HEL Classroom

HEL courses introduce a host of teaching challenges. The most notable include the wealth of linguistic concepts illustrated across 1500 years attempted within a single course. As noted, added to these two challenges is that many HEL courses are taught as general education electives, including the HEL course within our institute. Consequently, many students who take HEL to fulfill this advanced gen ed requirement come into its classroom from various majors and academic disciplines and, through no fault of their own, lack both the linguistic and historical foundations to ease the content challenges. One such solution is to take a sociolinguistic approach to language that focuses on how the social and political frames influence language variation and change, and to present linguistic evidence through data accessible to students of differing disciplines and professional interests.

As a foundational step, students are introduced to linguistic changes from a contemporary language-user perspective, one in which they can immediately participate. Community, social, and political powers that demonstrate changing linguistic features and the powers of change are illustrated through present-day examples: e.g., the influx of lexical items from Drag Queen communities; trans-society and pronoun change; political powers such as Black Lives Matter or MAGA on changing discourse pragmatics. While many external catalysts for language change are discussed,<sup>4</sup> the course also moves to the internal processes of linguistic changes, still relying on contemporary examples of grammaticalization (e.g., get-passive: "getting nibbled to death by a duck", Schwarz, 2017), phonological shifts (e.g., the Northern Cities Vowel change see Labov, Yaeger, & Steiner, 1972:<sup>5</sup> bagel 'beɪgəl > 'bɛgəl), even morphosyntactic change (e.g., the apostrophe *s* to create the relative pronoun *that's*, now used in place of *whose*: "The officer *that's* keys went missing had to call his boss," see Martinez & Wood, 2018). These discussions—robust, informative, and entertaining—begin the requisite foundation.

To ensure student engagement continues as our study of HEL must move across time and geographic space, the use of topical texts plays a key role. Keeping the mix of undergraduate majors talking about the forces and intricacies of language change is served by looking at data from within their own disciplines, however disparate. Fortunately, drawing on discipline-specific corpora (e.g., medical, legal, religious, academic, entertainment, cultural<sup>6</sup>) allows us to look at lexical and morphosyntactic changes while demonstrating discipline variation, providing an avenue to discuss dialect variation. Supplementing our discussions of change, these discipline-specific writings demonstrate the codification of language forms for particular purposes and specific audiences. This opens discussions on prescriptivism and the role of language standardization, and helps students better understand why academic writing standards are and should be enforced, and why, in contrast, the pervasive negative effects of bias toward dialect variation of spoken language must be combatted.

Keeping with the topic and scope of this article, the focus on student engagement within both WID and HEL courses makes way to examine legal texts, and, specifically, how cross-pollination from composition and rhetoric and HEL courses benefits students whose department homes are for

instance, history, political science, pre-law, and business, but they also allow students to learn from each other while improving their writing and analytical skills.

We next present three sample lessons. In the first two, we demonstrate our individual approaches to the same text in our respective courses. In our third example, using a shared text, we demonstrate our combined approaches within both a composition and a linguistics course.

## Examining Anglo-Saxon Legal Texts Within Our Classes

### Employing Paralogic Theory to Analyze Legal Texts Within WID Courses

However counterintuitive it might seem, the goals of legal writing do not rhetorically differ from the goals of paralogic rhetoric and, in many ways, are two sides of the same coin. As Osbeck (2012) points out above, good legal writing aids legal decision-making by focusing on the rhetorical choices writers make. If writers follow these rules in their invention, arrangement, and composing processes, they will more than likely achieve their purpose. Conversely, if legal writers create an unclear, verbose, and/or dull composition, they could hinder or obstruct decision-making processes. Given this logic, legal writing's primary purpose is to understand language's unpredictable nature and provide prescriptive goals or guidance on how to best mitigate that unpredictability. Like paralogic rhetoric, legal writing focuses on minimizing the risk of misunderstanding by emphasizing the public, interpretive, and situated aspects of language.

In the classroom, good legal writing and paralogic rhetoric meet in unexpected ways. Primarily, they best serve as a two-pronged approach to analyzing and revising legal texts. Our WID courses use these theories to help students better understand rhetorical considerations of invention, arrangement, and style, as well as how to best attend to potential misunderstandings in register-specific writing. For example, the class reads a small excerpt from Anglo-Saxon (Old English) law, particularly 11<sup>th</sup> century statutes on legal grievance, contract law, and judicial conduct as designated by the King of England, Denmark, and Norway, King Cnut (Canute). Students read the statutes in groups of three to four and must analyze the rhetorical strategy of each law, including areas of uncertainty, potential misunderstanding, and vague or ambiguous language. Once they have analyzed the statutes, they collaboratively revise the laws for a modern audience, paying special attention to good legal writing practices and paralogic rhetorical considerations.

King Cnut's statutes are an interesting text for this activity because they require students to contend with an unfamiliar historical and writing context. Many of the statutes are challenging because their etymological habits and sentence structures are so different from contemporary legal writing. But they are also difficult because much of Anglo-Saxon law is based in community custom and oral tradition, and the laws are written so that they will perpetuate, not supersede, custom ("The Avalon Project," 2008, para. 1). The relative clarity of language is also an issue and can adversely affect the ability to facilitate legal decision-making.

By focusing on only a few statutes, instructors can contextualize and attend to historical and contextual difficulties. Those laws that speak to community oaths, property laws, and entitlements are perhaps the most accessible for this kind of activity. In Cap. 21, for instance, King Cnut writes "And we will that every man above XII years make oath that he will neither be a thief nor cognizant of theft" (1016-1035). Class discussions focus on how the social contract is defined and regulated by both the king and the community ("we will," "make oath that he will neither be"), and how the requirement of an oath is a performative agreement. Next, the class analyzes how individual responsibility to community and custom facilitate legal decision-making. In this statute, if an individual agrees with the social contract, they must make an oath to preserve the integrity of

community and individual property. Finally, the class considers areas of vague language, sentence structure, and rhetorical ambiguity that might undermine the statute. It is concerning, for example, how the term thief is never defined and instead relies on community knowledge and custom. Likewise, the word cognizant is equally vague, and can even forward skepticism of the community (and king's!) authority to sanction an individual's oath for all time.

Once the class gets a sense of how legal language and writing conventions work in contract law, the lesson introduces two other statutes of varying difficulty. Statutes Cap. 71 and Cap. 83, which cover intestate regulations and entitlements, respectfully, might be the most fruitful for this activity. Cap. 71 states:

And if any one depart this life intestate, be it through his neglect, be it through sudden death; then let not the lord draw more from his property than his lawful heriot. And according to his direction, let the property be distributed very justly to the wife and children and relations, to everyone according to the degree that belongs to him. (Cnut, 1016-1035)

The class can build on the legal writing and rhetorical insights we use to analyze Cap. 21, but the vague social contract language in these two examples might be more pressing. Despite its clear sequential protocol, some might find Cap. 71's definition of *intestate* too limiting and could claim that considering only neglect or death inhibits sound legal decision-making. Similarly, it is unclear what "very justly" means or how the integrity of a law is subject to the whims of an office, i.e., the lord's "direction" (Cnut, 1016-1035). Cap. 83 follows suit, stating "And I will that every man be entitled to 'grith' [i.e., peace or sanctity] to the gemot [or community] and from the gemot, except he be a notorious thief" (Cnut 1016-1035). Like Cap. 71, the social contract language in this statute is vague and can help point out how hard it is to define and sustain peace in relation to the community, especially since the community and its definition will change. Moreover, the social contract cannot guarantee any legal definitions beyond its immediate context. For some, such an objection might be too damning, and we can see arguments that this statute's vague foundation weakens the integrity of previous statutes, thus undermining the credibility of the social contract itself.<sup>7</sup>

Once students analyze the texts, they revise them using the principles of good legal writing and paralogic rhetoric. Since our WID courses are not legal writing courses, we emphasize the public and situated aspects of disciplinary-specific writing over its more technical conventions and jargon. Accordingly, the class instead rewrites these statutes by focusing on a modern, general audience who is familiar with contemporary (American) ideas of the social contract, particularly how laws/rules are made and enforced in conjunction with community needs. WID instructors do not need to focus on legal history or theory to help students envision their audience; rather, a quick cursory glance at social contract contexts/artifacts students are already familiar with should suffice. Students, for instance, can do preliminary research by visiting government websites, such as the local city's Code of Ordinances, or organizational websites, like the Boy Scouts of America's *Scout Oath and Law*, to better understand how to rewrite King Cnut's statues into more modern legal language and sentence structure.

Interestingly, this activity contends with the unpredictable aspects of language and the risk of misunderstanding. As the analysis of King Cnut's statutes demonstrated, it is easy to overly prescribe and create confusion in any rule or law. Consequently, instructors (and students) need to think more carefully about statute/paragraph cohesion and scope. For example, a revision of Cap. 21 could use an imperative sentence structure and more clearly define what *thief* or *cognizant of theft* means: "Every citizen above 18 years of age affirms that they do not, and are not aware of, unlawfully possessing another's property or person." Similarly, a revision of Cap. 71 could delineate scope by

narrowing the language of application: “the mayor is entitled to only the property rights outlined in local ordinance 7.163 and no more.” Rather than risk questions of definition and legal application as you might in the original statutes (“thief,” “his lawful heriot”), it is better to explicitly state the scope in the statute itself. While not a panacea for the risk of misunderstanding, such revisions better attend to potential questions, areas of confusion, and/or vague language issues because they clearly outline rhetorical parameters and help facilitate legal decision-making processes.

### **Employing Historical Linguistic Methods to Analyze Medieval Legal Texts Within HEL and WID Courses**

For many of us who teach HEL, particularly through a sociolinguistic lens, reading Rice’s student tasks, the rhetorical analysis of King Cnut’s statutes, we discover an alignment with many HEL course goals: focus students’ attention on the historical context within which language choices are selected and identify whether the texts’ goals are met through the linguistic choices employed. The Anglo-Saxon statute, as Rice notes, demonstrates its historical place as an attempt to calcify the social contract between king and citizen. While both of our student populations explore the relationship of the text for its polity, purpose, and language choice, this Anglo-Saxon text is but one of the many period pieces my HEL students must place along the 1500-year continuum as they acquire an understanding of various Englishes, their development, their cultures, and their linguistic features.

To address HEL’s historical burden of dates, events, and language change, Stickle employs the jigsaw method (Schreyer Institute for Teaching Excellence, 2007). She asks her students to select a period for which they wish to explore. Using their self-selections, Stickle forms groups, each of which will lead the class through their designated period’s notable events as those events relate to linguistic changes. The small group are provided a list of questions to which they collaboratively find answers, supporting documents, images, and other materials. In essence, they are given a piece of the historical puzzle and charged with becoming the experts of that pertinent information. While Stickle guides each group as they select, design, and present the relevant information to facilitate their peers’ understanding of each period, it is the students who are tasked with making clear the initial connections to culture and language change. The jigsaw method is shown to increase both engagement and acquisition of information across disciplines and for various kinds of learners (Nalls & Wickerd, 2023). In Stickle’s HEL courses, it yields student-designed, creative, in-class activities such as role-playing games, video of TikTok study guides, online-mediated quizzes, graphically enhanced worksheets, and e-assignments. Just as Rice draws his composition students’ attention to the details of language, Stickle, too, asks her HEL students to investigate the historical language choices and practices that reflect, reinforce, and instantiate societal structures by examining the documents’ lexical and syntactic structures.

Using the online *Oxford English Dictionary (OED)*, Stickle has students chart key words for their etymology, meaning, and variants and then explain the word’s import on the text. Together, the class compares the effects of present-day word substitutions. In addition to lexical items, students examine the morphological patterns present, that is, the parts of words—prefixes, suffices, inflectional patterns—and word formation processes such as compounding, functional shift, borrowing.

Take the use of “bot” in Cap. 26: *frithes-bot*, *feos-bot*, *burh-bot*, and *bric-bot*. Students unfamiliar with morphosyntactic structures experience a crash-course on the types of affixes English employs along with a lesson on word formation processes. In small groups, they investigate the etymological, linguistic, and semantic evidence of the texts’ linguistic features, and present the best argument for features and the underlying rule(s) that govern them, such as the attachment of “bot”. Is it a suffix? Is it a free morpheme compounded to make new words? To what present day English structures does the use of “bot” compare? Why might we no longer add “bot” to form words? Students learn how to

use resources such as the *OED* or other databases with historical data (e.g., *The Middle English Compendium*, 2024), tools that are useful beyond the HEL classroom. For instance, a simple lesson here is that consulting a specialized dictionary is often better than using a common dictionary such as Webster's: we've all read too many times "according to Webster's" when such citations lend little support, but the use of a specialized dictionary, like historic dictionaries or other professional dictionaries, might actually be helpful to making an argument. Another lesson may be a better understanding of affixes in word creation and, thus, foster in our students a tolerance of language change.

Similarly, a close examination of word choice helps these developing writers discern how to effectively select words. Like Rice's task to explore the meaning of cognizant, Stickle's HEL students discuss what factors might have influenced King Cnut (or one of his *witan*) to select *frith* (n. peace) that is related to *firth* (transitive v. to make peace) and when the selection was *grith* (n. peace) which is related to *grith* (intransitive v. to make peace)? Equally valuable is such an exercise in our WID classes as this activity reinforces the import of the most apt words placed within their most advantageous slots, whether for legal documents or general writing tasks. In our WID courses, students explore the nuances of research-reporting verbs using our online *OED* resource, for example. By reinforcing the use of good dictionaries and vocabulary development, the writers across our courses are strengthened.

In the HEL course, we also look carefully at the syntactic patterns of each sentence. Take the sentence of Cap. 70: "This then is the alleviation which it is my will to secure to all the people of that which they before this were too much oppressed with." After a brief review of grammatical classification, HEL students must identify the grammatical parts and their constituents, the words in the sentence that go together. Dissecting sentences draws out interesting observations. Despite the expanse of time, English speakers continue to use most 10<sup>th</sup> and 11<sup>th</sup> century words, and yet, many of the structural choices of this sentence make it difficult to parse (e.g., the numerous prepositional phrases; the separation of auxiliary verbs from lexical verbs; too many wordy qualifications). Such problems are not unlike the choices our students make when writing their academic papers.

Students also evaluate the argument to recodify legal language through the employment of common language choice and structure, i.e., the plain language movement (see Bivins (2008) for a historic overview; see Sanni (2022) for current plain language perspectives). Similar discussions take place as discipline-specific groups simultaneously examine contemporary period texts within their areas: e.g., medical, religious, literary. In jigsaw fashion, members from each profession create interdisciplinary groups in which members report on their texts. Together, they compare findings. Using period and discipline-specific documents in this way helps reduce the problem of 1500 years of history and our students' inability to truly assimilate the historical periods when such material is presented chronologically as was and remains the pattern in many HEL courses. Group work allows students to produce knowledge rather than simply absorb information; participant movement among groups increases individual accountability and engagement while advancing student presentation and networking skills.

## Examining Legalese Diachronically in WID and HEL Courses

We present two additional, but brief, analyses to demonstrate the diachronic approach to legalese and legal writing, which facilitate students' ability to notice changes within the register—within legal texts—and changes within the English written language at large. Our first case study, *John Reid Jr's 1742 Indenture Agreement*, is a well-known example of U.S. (then British) contract law and helps illustrate to students how different kinds of legal texts grapple with the risk of rhetorical and semantic misunderstanding. In our second and final case study, we combine our paralogic rhetoric

and diachronic lexical approaches to the *Loving v. Virginia* 1967 Supreme Court Ruling. A landmark ruling in U.S. Constitutional law, *Loving v. Virginia* provides a fruitful context to demonstrate how students can combine diachronic linguistic structural analysis and paralogic rhetoric's focus on the public, interpretive, and situated nature of writing to rethink, among other things, legal writing's invention, arrangement, and delivery.

### Examining John Reid Jr's 1742 Indenture Agreement in the WID Classroom

*John Reid Jr's 1742 Indenture Agreement* (Historical Resources, 2023) provides an interesting transition for WID analyses of legal writing. Firstly, the rhetorical structure differs greatly from King Cnut's 11<sup>th</sup> century statutes. Written as a contract between Reid Jr. and his future mentor and employer, the document outlines the responsibilities and behaviors required of the agreement—and especially those of the indentured. While the first few sentences delineate the contract's parties and limitations, the rest prescribe the tasks and behaviors Reid must follow to honor the contract. Some of these conditions seem outlandish at first glance—Reid Jr. cannot gamble, get married, or have children while under contract, for example—but were standard contract conventions at the time. The final section of the document then closes the agreement by presenting witnesses, signatures, etc.

Unsurprisingly, the rhetorical structure of statutes and contracts differ—they are indeed two different genres of legal writing, that is, two different recurring, situational types of legal writing (see the development of genre in Devitt, 1993, 2004). However, it is notable how both forms of legal writing require an agreement to a set of rules, and specifically how a party can act within those rules. For King Cnut's statutes, the law bears the onus of demarcating the parameters for social conduct and continuance of community, including the community member's rights, grievances, judicial conduct, etc. In contrast, Reid Jr.'s indenture agreement requires each party's willingness to be governed by the contract, while also envisioning its integrity and applicability to be bound by a willful, good faith agreement. Though there are certainly witnesses to the contract's legality, it is up to the parties to ensure that the agreement remains both lawful and sustainable.

In the WID classroom, the transition between statutes and contracts often materializes as an analysis of historical, philosophical, and political trends. In our WID classes, we tend to focus on how various definitions (and legacies) of the Enlightenment individual affect rhetorical structure. Students frequently point out how the language of Reid Jr.'s *Indenture Agreement* assumes a free and willing subject, much like the language of wills or employment contracts today. And like those contemporary agreements, Reid Jr.'s *Indenture Agreement* uses a descending order of importance arrangement strategy to outline the scope of the contract's parameters. Interestingly, some students balk at the indentured part of the contract, and with good reason. Indentured servitude has long been the subject of legal debates, not the least of which is its violation of labor laws and rights, both present and past (see McKee, 1931; Salinger, 2000; and Herndon & Murray, 2009). Others counter that this kind of contract is not structurally or rhetorically different from employment contracts that prescribe grooming habits, tattoos, tobacco use, or declarations of faith.<sup>8</sup> They too assume a willful, good faith agreement between employee and employer about behaviors and lifestyle choices.

Given the public and interpretive nature of contracts and contract legal writing, these classroom analyses of historical genre conventions often use paralogic rhetorical theories to their advantage. Following our analyses of King Cnut's statutes, our classes will often look for ways to minimize the risk of misunderstanding when analyzing Reid Jr.'s legal contract as well. Attention to rhetorical structure is important here, as students do not want to replicate statute language or writing style and inhibit the spirit of the agreement. They are also careful to follow the descending order of importance when thinking through arrangement strategies. However, it is perhaps in this task students struggle the most. Some struggle with developing a rhetorical strategy that does not overly proscribe the

contract's terms. By attending to contingency in language, they run the risk of creating an impossibly rigid contract that violates both the law and the willful, good faith agreement that underlines any employment contract. Students worry, for example, to what extent an employer can prohibit an employee's actions, lifestyle choices, and behaviors. If an employer can forbid tattoos or alternative hair styles/colors, can they also prohibit eye glass design or whiteness of teeth? Can an employer ban certain hobbies, like skydiving or caving, because they endanger the employee (and thereby the employer investment)?

No easy answers exist, of course. But most students tend to draw on the public and situated aspects of legal writing when wrestling with such issues. By recalling that good legal writing should facilitate sound legal decision-making, students can better delineate the contract's context and how it might engender certain contingencies. For example, when rewriting Reid Jr.'s (1742) contract, students consider the following line: "At Cards, Dice or any other unlawful Game, he shall not play, whereby his said Master may have Damage with his own Goods, nor the Goods of others within the said Term." After careful discussion, students notice that Reid Jr.'s contract does not prohibit gambling per se, but only if he gambles with his master's goods or goods of others. For most, this is an acceptable term because it only outlaws behaviors that would directly affect the employer in a particular context. In similar fashion, students apply considerations of immediate context to their reworkings of Reid Jr.'s contract. In rewriting this example, they might say something like "Gambling is permitted, but must not involve or include the employer's or affiliates' brand, image, likeness, or goods." Rather than focusing on every contingency and creating an impossible contract, students focus on those behaviors, grooming habits, and lifestyle choices that seem most likely to affect the legality of the contract *or* the spirit of the willful, good faith agreement. Much like King Cnut's statutes, this helps students realize the role contingency plays in the relationship between rhetoric, good legal writing, and genre conventions because it foregrounds the public and situated nature of contract writing in particular and legal writing in general.

### Employing Historical Linguistic Methods to Analyze Early American Legal Texts Within HEL Courses

Relying on the many historical linguistic analytic tools they developed when they examined earlier texts such as King Cnut's statutes, the HEL students can now confidently investigate both the historical and linguistic elements of this contractual agreement between Robert Livingston Jr., master, and Reid, Jr., indentured servant. First, our early American history experts must explain and contextualize 18<sup>th</sup> century employment contracts between masters and indentured servants. Were these arrangements dictated solely by socioeconomic status? Did any, at this time, cross racial or gender divides? Were they a means to move socioeconomic, and, consequently, social classes? As co-author Rice points out, the document is an employment contract, but it is, ironically, a type of syllabus as well, promising the delivery of skills: Reid Jr. "will be taught the Art and Mystery of a Marchent." How might this represent an institution of higher education? Could Reid Jr. be a sort of American version of Pip in *Great Expectations*?

Next, students may begin to explore the linguistic choices of this contractual agreement between Livingston, master, and Reid, Jr. indentured servant. First, a close analysis of such lexical semantics of such contract's words as

**absent**, verb, in Reid Jr.'s inability "to absent himself Day nor Night from his said Master of Service"; or

**said**, adjective, in "said Master" and the use of "said" in the standardization of legal language.

Similarly, students explore the structural choice of “gladly every where obey,” or the codification of legal structures such as shall which nearly exclusively appears in present-day legal texts. They may look closely at the passive structure (emboldened below) and ask its purpose: “And the said Master during the said Term shall by the best Means or Method that he can, Teach or cause the said Apprentice to be Taught the Art and Mystery of a Marchent.” As in the WID classes, students compare similar contracts (syllabi or other discipline specific documents) for written expression of duties and responsibilities of each party. As they attempt to rewrite unclear sentences by aligning their intended (or interpreted) meanings with present day lexical and syntactic choices, students work toward honing their writing skills. By workshopping their revisions with fellow students, they also learn the importance of in-class peer review and workplace collaboration. Additionally, when revising directives, they experience how powerful the selection of subtle word or sentence structure choices are, as well as how some constructions are more or less effective. Through this process, students learn how to better self-advocate and to lead others in their personal, educational, and future professional environments.

### **Combining Paralogic Rhetoric and Diachronic Lexical Analysis: Analyzing Contemporary Legal Writing in the *Loving v. Virginia* (1967) Supreme Court Ruling in HEL and WID Courses**

Both paralogic rhetoric and diachronic lexical analysis provide a clear entry into the kinds of public, situated, and interpretive considerations students must make to produce good legal writing. What’s more, applying their insights to contemporary legal writing genres can also help alleviate some of the difficulties students experience when analyzing King Cnut’s statutes or John Reid Jr.’s indenture contract. Language use, grammatical conventions, and even legal terminology all become more familiar in contemporary texts, though rhetorical structure can still be a challenge. In our WID and HEL classes, we often transition from medieval statutes and early American indenture contracts to more recent legal writing, such as the 1967 US Supreme Court ruling in the *Loving v. Virginia* case.

The ruling is an interesting transition for many students, if for no other reason than its pertinent applicability to today’s legal (and social) context. In a landmark civil rights ruling, the U.S. Supreme Court ruled unanimously that laws banning interracial marriage violated the 14<sup>th</sup> Amendment of the U.S. Constitution. While some students struggle with the sheer breadth of the opinion, such concerns are frequently dismissed due to the case’s relevance—especially given the current conservative Supreme Court majority and its willingness to revisit (and overturn) legal precedent.

Our WID courses try to mitigate the opinion’s depth and breadth by focusing on the Court’s opinion, which was delivered by Chief Justice Warren. In particular, we study Section 1’s rebuttal of the state’s use of the equal application theory as precedent. Chief Justice Warren writes:

In that case, the Court upheld a conviction under an Alabama statute forbidding adultery or fornication between a white person and a Negro which imposed a greater penalty than that of a statute proscribing similar conduct by members of the same race. The Court reasoned that the statute could not be said to discriminate against Negroes because the punishment for each participant in the offense was the same...[However,] there can be no question but that Virginia’s miscegenation statutes rest solely upon distinctions drawn according to race. The statutes proscribe generally accepted conduct if engaged in by members of different races...[and] there is patently no legitimate overriding purpose independent of invidious racial discrimination which justifies this classification. The fact that Virginia prohibits only interracial marriages involving white persons demonstrates that the racial classifications must stand on their own justification, as measures designed



to maintain White Supremacy . . . These convictions must be reversed. (*Loving v. Virginia*, 1967)

With much to unpack here, students analyze the rhetorical structure and language use in Chief Justice Warren's opinion. They investigate his use of deductive logic and sentence structure to think through potential for misunderstanding and/or contingency in language. Following their analyses of Reid Jr.'s indenture contract, they often pay special attention to how they could rewrite this opinion to account for contingencies and solidify its rhetorical logic. One point of contention is how Warren centers the court's opinion on interpreting race as a distinctive category in precedent, but then critiques these arguments in two different sentences, "there can be no question" and "The statutes proscribe." Here, students rightly critique this grammatical decision by combining paralogic rhetorical analysis with insights from diachronic lexical analysis. For example, they often point out how such grammatical decisions are potentially risking misunderstanding, as they could too easily be quoted out of context. Instead, they revise the opinion using a conditional sentence structure or a subordinating conjunction that more firmly ties the two ideas together through a dependent clause: "Virginia's statutes rely on racial distinctions *because* they only prohibit actions between different races." This revision, of course, not only creates a smoother rhetorical structure, but also creates a more seamless grammar for legal decision-making processes because the arguments are now dependent on one another.

Linguistic analyses within HEL courses of *Loving v. Virginia* complement their WID counterparts. For instance, students in HEL courses also cannot shy away from uncomfortable social and lexical practices of both past and present. As a matter of education and continuing relevance, HEL students wrestle with lexical change and variation around the U.S. Civil Rights Movement and this key piece of legislation illustrates how acceptable word and phrase use is rhetorically and contextually determined and can slowly or sometimes swiftly change. Next, HEL students often engage in a syntactic analysis of the sentence structure, as described in the task for our WID students, or take to task the placement of adverbs (e.g. "patently") and the use of passive voice ("These convictions must be reversed.") Finally, HEL students are challenged with tracing the lexical choices within the legal discourse—be they part of jurisprudence (such as "statute"), the reliance on loan words such as "miscegenation" or "invidious," or characteristic of the time such as the use of the terms such as "Negro" and "White Supremacy" during the Civil Rights Movement and afterwards. Here, students divide up the lexical items they wish to etymologically trace through both the online *OED* and/or historical documents (e.g., newspapers, news reports, magazines). They then come together to discuss their findings (in jigsaw fashion). By requiring students to look at the ways in which acceptable racial terms have been used in key legal (and other) documents, they can more readily discuss the changing vocabulary we are experiencing in contemporary legal contexts, such as recent legal discussions of gender, personhood, and the legal definitions of both. Both students and instructors therefore gain an appreciation for the struggle to achieve better lexical choices, better pronoun choices, while also recognizing the difficulty to change self or society.

At the same time, some might object to changing the document's rhetorical and linguistic structures because it could have unintended implications for the integrity of the written opinion itself. After all, revising an established Supreme Court opinion runs the risk of subverting the ruling's intent and efficacy. We would argue, however, that even though *Loving v. Virginia* is an official legal ruling and instance of legal writing, it is nonetheless an argumentative opinion and is thereby still subject to the purview of rhetoric and the *polis* it is meant to serve. Similarly, while legal language strives to be unambiguous, clear, and precise, it is tethered to the rhetorical and linguistic (and legal) codification(s) of its time. Hence, we and our students come full circle. We return to our first and most important sentiments: language often fails us. As a result, we must retain a healthy skepticism

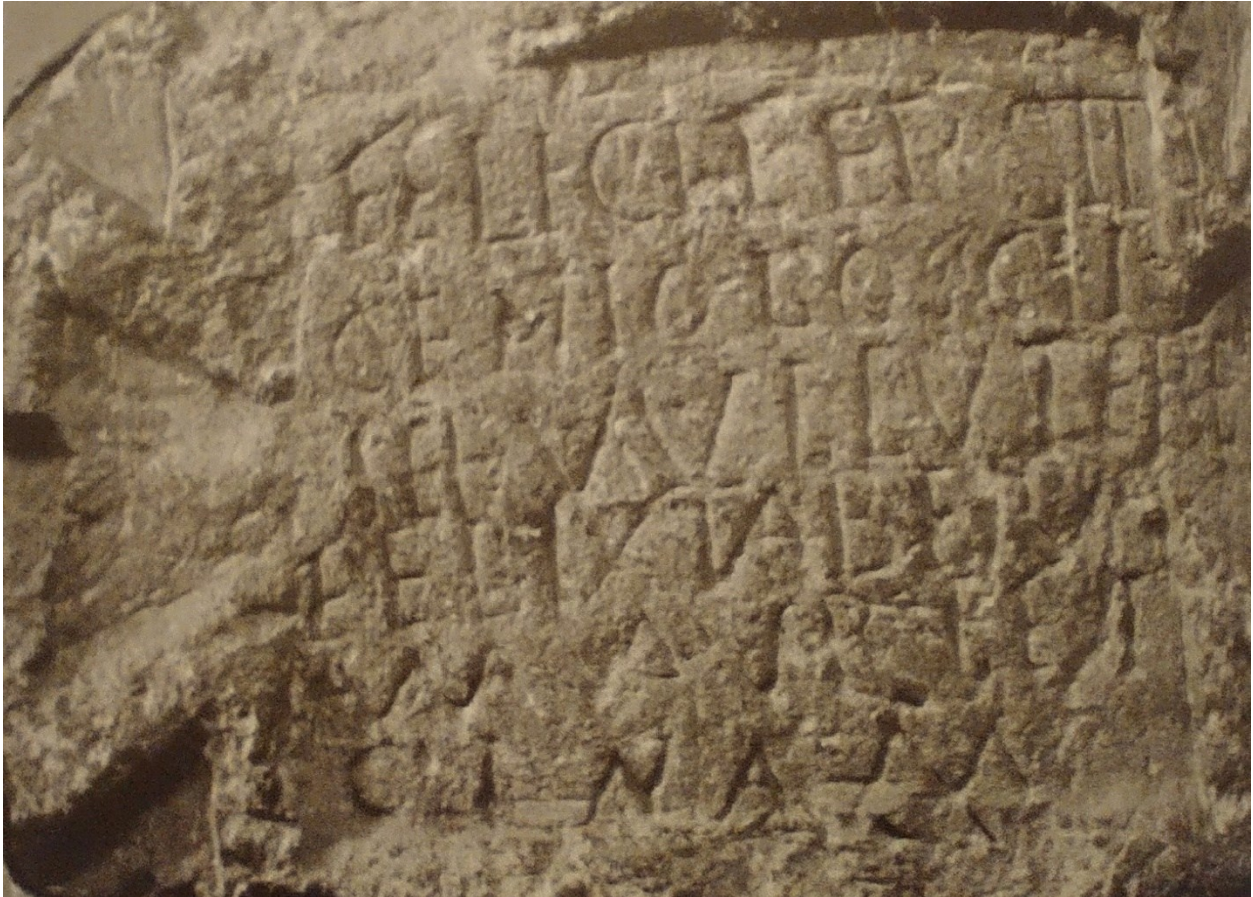
of the relationship between language and meaning, while still pursuing new ways to refine society's (and our own) language use. Legal writing, in other words, is very much a flexible and malleable endeavor, much like the history of which it is a part. Luckily, students see the value in such approaches, and especially how they help attend to the historical contingency of legal writing in general. Indeed, for many, they find attending to the rhetorical and linguistic aspects of legal writing helps alleviate misunderstandings and offers, however brief, some certainty to its ability to foster legal decision-making.

Though often challenging, working through difficult legal texts like *Loving v. Virginia* teaches students how to broach difficult topics in both their personal and professional lives. Learning how to have conversations about potentially intractable moral conflicts (Kugler & Coleman, 2020) through processes that put emotions aside and employ strategies of analysis and reasoning aligns with our course goals to simultaneously develop students' soft and applied skills.

## Expanding our Cross-course Collaboration for Pedagogical and Research Considerations of Legal Texts: Toward Different (AI) Contexts

The sampling of legal texts that one can use in either WID or HEL classrooms is easily expanded across various historical contexts. In fact, early in the authors' collaboration, we were drawn to a discussion of ancient stone texts and how they served as an intersection of legal rhetorical strategy, linguistic convention, and the public import of both. For example, the AD 66 stone pictured below is a deed of sale written by a slave showing the transfer of a goldsmith's shop's property rights (Figure 1). In our conversations, we found that while both instructors and students relied on the archeologist Roger Tomlin's explication of the stone's message, the artifact allowed us, in our WID and HEL courses, to wrestle with notions of literacy and the power of legalese within a Roman-ruled Britain. The few words written on the stone helped us to begin a classroom discussion of what are legal texts and how do they function within a society: How are they social contracts between both the signers or receivers of the document and how do they represent or reflect a greater agreement between citizen and society? Moreover, this documentation of a former slave who was, apparently, able to move social classes allowed us to talk about the practice of slavery outside the weight of our own (U.S. or U.K.) historic record. Doing so helped both the instructor and class to broach topics, set discussion guidelines, and demonstrate the processes of analyses long before we encounter texts such as *Loving v. Virginia*.

But WID and HEL collaborative analyses of legal texts do not need to be relegated to the (distant) past, and can, in fact, be a fruitful context to reexamine contemporary concerns in legal writing and its application of legal decision-making. The most pressing of these concerns is the future of legalese in a ChatGPT world. In our WID and HEL classes, we have started challenging our students by engaging with legalese compiled by ChatGPT. Specifically, we use Perlman's concept and discussion of ChatGPT (2022) as a legal aid, and by which he has generated legal texts from prompts provided to ChatGPT. From these models, our students explore AI's legal powers along with its rhetorical and linguistic facilities. Students are tasked to first choose a legal document—such as a contract, a statute, etc.—and then create a comparable text themselves. Once they have completed that task, they must use ChatGPT to create the same kind of document. As they analyze the three products, they must entertain the legal, linguistic, and moral quandaries of justice, mercy, and benefit of each documents' structure, paying particular attention to the words strewn together by a non-human entity.



*Figure 1. Malton: Stone plaque (RIB 712, Tomlin, located in the Yorkshire Museum; referenced in Tomlin, 2018, p. 204)<sup>9</sup>*

When conducting this activity in HEL courses, it is refocused to explore ChatGPT’s ability to formulate a text when directed to use a specific dialect: regional (place and time), sociolectal, or standardized. Sometimes students will request ChatGPT to use a conlang (e.g., Esperanto, Dothraki) or that of a language learner (e.g., a Mandarin first language speaker acquiring English). A comparative analysis of the three texts—original, student-generated, ChatGPT-generated—highlights differences in morphology, syntax, and lexical selections across time, space, and culture. Students, however, have been most disturbed by the linguistic, social, and cultural biases reflected in ChatGPT compositions. For example, when asked to construct a legal text in Southern American English (SAE), the texts have included expressions of direct address such as “sweetheart” and colloquialisms such as “bless your heart.” Equally disturbing were ChatGPT’s compositions that attempt to simulate language learners. Students come away from this activity with a better understanding of the pervasiveness of linguistic bias and a heightened awareness of their own.

Based on our observations, students are conflicted—as are we—when using AI tools. While AI generates well-structured and, mostly, accurate texts and, as such, is embraced for those qualities, students also comment on how unsettling it is to relinquish the creation of language and ideas to something that is not human, some thing that largely takes them out of the process. One that could be used to manipulate readers, citizens. We find our students’ wrestling over these issues to be hopeful as this demonstrates our key pedagogical goal: thoughtful skepticism. Moreover, we believe such methods accomplish several additional pedagogical goals: the process a) allows students to use an often-prohibited tool; b) invites students to explore this tool’s power and limitations regarding

both factual and linguistic/composition proficiency; and c) grants students an appreciation for their own facility with written (legal) language. Students also learn how to better navigate contemporary legal rhetorical and linguistic structures, while simultaneously gaining both intellectual and employable experience with AI technology.

## Beyond Legal Texts in the WID and HEL Classrooms

While we have provided three examples and a handful of ways to extend the use of legal texts within the horizon of AI, we hope to have demonstrated that the collaboration between paralogic rhetorical and linguistic analyses allows for interesting class discussions, increased student engagement, and development of analytical and compositional skills. In WID and HEL courses, our students compare such historic documents with present day examples of genre writing—e.g., legal, medical, religious, philosophical—which are, too often, difficult to parse. Students rewrite sentences for clarity's sake, often competing for best in categories of concision, clarity, and impact (powerfulness of the prose). Whatever the historical textual evidence—legal or otherwise—students gain an appreciation of genre styles, language change and variation, and the power (or lack thereof) in lexical and syntactic linguistic choices. Because our student population arrives in our classes with increasingly disparate abilities, our approach provides a scaffolded structure that does not shy away from difficult topics and one within which students engage in small group analysis, allowing for their multi-level skills, maturity, and differing college experiences to meld into a collaborative learning situation. Our students acquire both personal and professional skills as they analyze, present, and entertain different perspectives.

Lastly, we write of our experiences as anecdotal evidence of the positive effects this collaborative approach has upon our students, within our classrooms, and for ourselves. Thus, it has not escaped our attention that the next step is for us to do empirical research on the actual effects our approach has on our students' soft and applied skills in comparison to WID and HEL courses that employ other methods. Are our results measurable; are they significant; is our method simply a sufficient yet enjoyable way to teach for the authors, as colleagues who commune in the process. Such an endeavor seems the next, reasonable leg of our work. We do, however, envision many interesting perspectives arising from joint analyses conducted by teams of rhetoricians and linguists. We encourage our colleagues within both fields to explore pedagogical and research collaboration as a world of texts and oral data could be better examined through such dual perspectives.

## Appendix A: Legal Documents/Links

The Avalon Project: Documents in Law, History, and Diplomacy:

<https://avalon.law.yale.edu/medieval/saxlaw.asp#defin>

Gilder Lehrman Institute of American History, Collection:

<https://www.gilderlehrman.org/collection/gilder-lehrman-collection>

Justia, US Law, Case Law, Codes, Statutes & Regulations: <https://www.justia.com/>

## Appendix B: Corpora

BYU Law Corpora: <https://lawcorpus.byu.edu/>

Corpora of Academic Texts: <https://www.clarin.eu/resource-families/corpora-academic-texts>

Corpus of Contemporary American English: <https://www.english-corpora.org/coca/>

Corpus of Early English Medical Writing (*CEEM*) that consists of Middle English Medical Texts (*MEMT*), Early Modern Medical Texts (*EMEMT*), and Late Modern English Medical Texts 1700-1800 (LMEMT): <https://varieng.helsinki.fi/CoRD/corpora/CEEM/>

Corpus of Early English Recipes: <http://www.gi.ulpgc.es/tell/page2/coer/coer.html> (Forthcoming)

Corpus of Early English Correspondence: <https://www.helsinki.fi/en/researchgroups/variation-contacts-and-change-in-english/research/corpus-of-early-english-correspondence>

Corpus Finder: <https://varieng.helsinki.fi/CoRD/corpora/corpusfinder/>

Corpus of Global Web-Based English: <https://www.english-corpora.org/glowbe/>

Full-Text Corpus Data: <https://www.corpusdata.org/>

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## Notes

- <sup>1</sup>Fostering abilities associated with the goals of a liberal education: the cultivation of free human beings, see Nycander, 2016.
- <sup>2</sup> Article published from a part of the 1966 original work.
- <sup>3</sup> For our purposes, social contracts are defined as “a political exchange relationship between the state and social groups that is mediated by interest organizations and that establishes public-policy parameters that endure over time” (Garon & Mochizuki, 1993, p. 145).
- <sup>4</sup> Students enjoy sharing their knowledge of current changes within their language and sharing their views on the power of change.
- <sup>5</sup> This activity is always remembered when a box of bagels during class secures in the students’ mind the pronunciation change.
- <sup>6</sup> A list of discipline-specific corpora is provided in the appendix.
- <sup>7</sup> It should not be surprising that students might come to this conclusion, especially given that this activity is an introduction to legal writing principles. However, we could also explain that many governing documents or social contract laws contain vague language about moral values, such as the Declaration of Independence’s defense of life, liberty, and the pursuit of happiness.
- <sup>8</sup> Religious organizations or parochial schools/universities, for example, might require declarations of faith as part of their employee handbook or hiring practices.
- <sup>9</sup> Permission to use granted by R. Tomlin, October 7, 2023, electronic correspondence.

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