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The Canadian *Environmental Assessment Act*. Legal Implicatures and Media Interference

Abstract: The paper proposes a linguistic study of the Canadian *Environmental Assessment Act* of 2012 (CEAA), the latest redraft of the original document (dated 1992), regulating the issue of human (over-)interaction with the natural milieu of the Country. The analysis concerns the main and most relevant linguistic aspects of the CEAA also in consideration of the ample series of modifications, and repealments occurred in comparison with its 1992 draft, focusing on the contemporary social, historical and cultural asset. Moreover, the linguistic investigation outlines the peculiarities of the document on the terminological and syntactic levels mirroring the link between the language conveyed and the legal content applicability in association with the retrieval of significant formulaic divergences, symptomatic of linguistic evolutive phenomena. Eventually, the web-facilitated intermediality of the Act is observed in relation to the evaluative process interferences on behalf of its users and affecting final political decisions about the environmental projects.

Keywords: *Canadian studies, environmental law, legal discourse, terminology*

> Like music and art, love of nature is a common language that can transcend political or cultural boundaries
>
> James Earl Carter Jr., *An Outdoor Journal*

1. Environmental Laws and the Canadian Context

According to the shared classification provided by the Technical Centre for Agricultural and Rural Cooperation (CTA), Environmental Laws consist in "an amalgam of state and federal statutes, regulations and common-law principles covering air pollution, water pollution, hazardous waste, the wilderness and endangered wildlife".[1] Indeed, as for any illegal deed befalling the respect for social cohabitation criteria and the otherness, all individuals must undergo a series of rules and norms to be collected within a range of codes which legal value has to be guaranteed by State apparatuses acting

[1] Stéphane Boyera et al., *Farmer Profiling: Making Data Work for Smallholder Farmers* (Wageningen: CTA Working Paper, 2017), 8.

and legislating over human's presence, participation and (over-)interaction – thus with the impact they exert – on the endurance of arrays of natural environments, ecosystems and resources which are at the same time surrounding communities of people and useful to those dwellers for their survival and socio-economic development.

Nonetheless, despite the great care the issue is experiencing nowadays, environmental sensitization has a fairly recent history, whose main concern intensified throughout the late nineteenth and early twentieth centuries until the 1950s breaking point, when after WWII the exponential increase of urbanisation rates in North America and Europe led to "severe air pollution events ... in London in 1952 and New York City in 1953, reportedly resulting in the deaths of at least four thousand and two hundred persons, respectively".[2] Yet, as remarked by Richard Lazarus, Director of the Supreme Court Institute of the Georgetown University:

> By the mid-twentieth century, environmental pollution remained a less prominent political issue, likely because of national attention to matters of war and peace, but it had nonetheless become a matter of importance to many Americans. There was considerable news media coverage of the air pollution disaster in Donora, Pennsylvania, in 1948, in which twenty persons immediately died, fifty more died within a month, and thousands became ill as the result of pollution during a dense fog caused by a lengthy thermal inversion that persisted for several days.[3]

A similar consideration would highlight how between the 1940s and the 1950s times were certainly mature for the utter acknowledgement of the environmental problem, but the post-war situation required the drafting of major agreements re-establishing peace, and thus postponed the urgency for such 'secondary' matters, which, however, started being seriously taken under duly consideration immediately after the Donora, London, and New York tragic events (definitely acquiring more importance during the 1960s). One relevant example of what has been described so far is the first actual British *Clean Air Act* of 1956, effective until 1964 – since previous efforts had failed – as the direct provision enacted to regulate over pollution issues after the London's Great Smog (1952) and establishing a list of limits to the consumption of fuel and burning-coal adopted to supply mostly heating and electric services.[4] Subsequent to critical episodes in history the environmental sensitization has grown and intensified over the years allowing the raise of governmental policies which are today attentive to the present situation.

To generalise, modern Environmental Laws act under a Common Law perspective intervening over

[2] Richard Lazarus, *Making of Environmental Law* (Chicago: University of Chicago Press, 2004), 53.
[3] Ibid., 52.
[4] The example refers to previous provisions such as the *Smoke Nuisance Abatement Act* (1853, 1856) and the London *Public Health Act* (1891). See Peter Brimblecombe, "The Clean Air Act after 50 Years", *Weather*, 61.11 (January 2007), 311-314.

litigations on Nuisance, Trespass, or Negligence (in case of disputes about individuals damaging each other), Strict Liability (including resolution of torts according to the *stare decisis* principle), and Prior Appropriations or Riparian Rights (which involve refund provision cases in advantage of those, whom were armed by others' illegal actions or behaviours).[5] Nevertheless, considering the common basis of the discipline, diverse geographical areas disclose different needs to be profiled and managed, as the attention to be paid to those aspects is also required to adhere with the proper set of laws in force within such heterogeneous territories.[6]

The Canadian situation, for instance, flanks the Common Law legal system basically adopted in the totality of the Anglophone Countries in the world with 'Federal' Environmental Regulations and 'Provincial' Statutes, mostly because of the vastness of the area involved, where – however – the federal authorities prevail over the territorial ones.[7] Moreover, notwithstanding the general fields mentioned in the former CTA definition, Canadian norms on the matter also cover specific applicability related to Geopolitical Affairs (such as international borders and relations; trade and commerce; navigation and shipping; activities affecting seacoasts conditions and fishery), Criminal Law, and any other activity useful for preserving the safety and the wellness of the Country. As a consequence, since the 1980s, Canada has been passing through an extensive range of legal documents starting from the enaction of the *Department of the Environment Act* in 1985 sanctioning the establishment of both a Department and a Minister of the Environment with the aim of taking care and legislate over issues affecting the Canadian ecosystems, their resilience and the sustainability of resources, also in compliance with international trade agreements and political relationships.

The long list of Acts then continued through lawmaking processes concerning agriculture and wildlife (see the *Fisheries Act*; the *Species at Risk Act*; the *Pest Control Products Act*), products transportation quality and requirements (see the *Hazardous Product Act*; the *Transportation of Dangerous Goods Act*; the *Shipping Act*), along with overall provisions affecting the whole environmental legal context (see the *Environmental Protection Act*; the *Environmental Assessment Act*), with the eventual result of not only divulging and spreading environmental(-ist) knowledge and awareness throughout the entire population, but also launching brand new cultural, linguistic, literary and mediatic discourses on subjects including Ecocriticism and Ecolinguistic Studies granting the Country the label of 'Green' Canada:

[5] "Environmental Law", *The Free Dictionary*, https://legal-dictionary.thefreedictionary.com/environmental+law, accessed 12 June 2018).

[6] See also Philippe Sands and Jaqueline Peel, *Principles of International Environmental Law*, Third Edition (Cambridge: Cambridge U.P., 2012).

[7] Dianne Saxe and Jackie Campbell, "Canadian Environmental Law Introduction", *Siskinds Law Firm*, https://www.siskinds.com/envirolaw/canadian-environmental-law-learn/intro-environmental-law/, accessed 12 June 2018.

> In "Wood", first published in 1980 and revised in 2009, the male protagonist ... walks self-confidently across the woods with his axe and chain-saw without perceiving any danger as he believes that nature is predictable and can be easily subdued. His failure proves him wrong ... "Wood" is an apt example of the recent turn in the Canadian literary imagination as it reveals the ever-growing environmental awareness and ecological involvement, but also the changing Canadian perception of the representation of the complex and intriguing relation between the human and the natural world.[8]

At that extent, summoning 'that' Alice Munro's short story entitled *Wood* has a peculiar significance in the Environmental Discourse as the mentioned female author writes her plots set in utterly ordinary (in this case, natural as well) contexts, although recurrently requiring well-focused mental rielaboration of the narrations, in order to let the readers access new perspectival dimensions reflecting their essence in relation to what they are surrounded by. In tight connection with this evaluative process, it would be metaphorically possible to understand the schemata according to which, in 1992, Canada introduced a fundamental *Environmental Assessment Act* aiming at the correct comprehension of the role of Canadians within the natural milieu they inhabit inasmuch as the consequences of the human influence upon it.[9]

The following analysis, indeed, presents a case study which observes the main features retrievable within the aforesaid *Act* – in its latest redraft of 2012 (*CEAA*, hereafter) – in terms of contentful information and prescriptions, and the most relevant Legal Discourse conveyed throughout its commas, eventually operating a linguistic comparison with the 1992 original version for the description of some significant discoursal evolutive aspects in time, according to the social and political changes witnessed by the Country itself.

2. The Canadian *Environmental Assessment Act* Case Study

The Government of Canada passed the parliamentary act in 1992 to enact the first *CEAA* pertaining to the preservation of the Canadian soil, with the purpose of "predict[ing] environmental effects of proposed initiatives before they are carried out" in order to mitigate any possible evident adversity could be unleashed by projects entailing the alteration of the current environmental status.[10] In accordance with a similar perspective, any activity of this kind, once established the need for assessment, would be submitted to an evaluative protocol first on behalf of an Agency that ponders

[8] See Oriana Palusci, ed., *Green Canada* (Bern: Peter Lang, 2016), 11.
[9] See also Robert Baldwin et al., *Understanding Regulations: Theory, Strategy and Practice*, Second Edition (Oxford: Oxford U.P., 2012), 315-337.
[10] Government of Canada, "Basics of Environmental Assessment", available online at https://www.canada.ca/en/environmental-assessment-agency/services/environmental-assessments/basics-environmental-assessment.html, accessed 13 June 2018.

over the impact it would have on factors such as biodiversity, climate, etc., then accordingly contrasted by counter-arguments held by the proponent(s), which would lead to a further step foreseeing possible revisions of previous considerations by the Agency itself or by a panel of individuals appointed by the Government to ratify a final environmental assessment decision.

Nonetheless, besides the bureaucratic *iter* associated with the exploitation of the Act, the present paragraph will mostly focus on its textual configuration and linguistic formulation.[11] Indeed, in analysing the *CEAA* one would immediately notice the bilingual drafting – evident on both a textual (two separated texts flaking each other) and a linguistic perspective (two different linguistic versions flanking each other) – due to the presence of multiple Canadian official legal communicative codes, English and French, displayed in a comparative structure where the two languages are aligned in order to let users shift between the couple for interpretation observations, understandability reasons, etc., related to legal, monolingual or bilingual needs and approaches.

Moreover, as for the majority of this sort of documents, which are all basically ascribable to a unique textual and linguistic 'class' where inner organisational and formulaic differences are abolished,[12] the Act immediately appears as highly fragmented and, although every sentence (or better, comma) is spatially and formally detached from the previous and the following ones, they are all clearly related to each other in defining an organic text setting the jurisprudence. As a consequence, quoting Bice Mortara-Garavelli's speculation concerning the law, on a primary outer stage it would be convenient to deal with textual 'classifications' rather than daring to sketch 'typological' generalisations.[13] Substantially, there are indeed linguistic traits identifying iterative aspects of the codes conveyed (such as lexicogrammar units, textual semantics and pragmatics), and which are peculiar of such domain, but classifications in the place of typologies would be of great help in determining the purposes and the communicative functions of similar given documents as well, mostly according to their authoritarian reliability both prescribing and informing the public of receivers.[14] Yet, insisting on the textual level, the typical commatic structure adopted for specifically outlining the prescriptability of the *CEAA*, which defines point by point every single applicable case or provision, shows seventeen different sections and a total number of one hundred and twenty-nine articles plus

[11] Treating the Canadian *Environmental Assessment Act* (2012) as a corpus, it will be linguistically observed via both qualitative and quantitative analysis focusing on its English version (disregarding the French one) and described according to a Corpus-Driven approach. See Elena Tognini-Bonelli, *Corpus Linguistics at Work* (Amsterdam: John Benjamins Publishing Company, 2001).

[12] Michele A. Cortelazzo, "Lingua e diritto in Italia. Il punto di vista dei linguisti", in Leandro Schena, ed., *La lingua del diritto. Difficoltà traduttive, applicazioni didattiche. Atti del convegno internazionale, Milano 5-6 ottobre 1995* (Rome: Centro d'Informazione e Stampa Universitaria [CISU], 1997), 35-49.

[13] Bice Mortara-Garavelli, *Le parole della giustizia. Divagazioni grammaticali e retoriche sui testi giuridici italiani* (Torino: Einaudi, 2001), 42.

[14] Peter Newmark, *A Textbook of Translation* (Upper Saddle River, NJ: Prentice Hall, 1988), 39.

three additional schedules designating Federal Authorities, Components of the Environment, and Bodies.

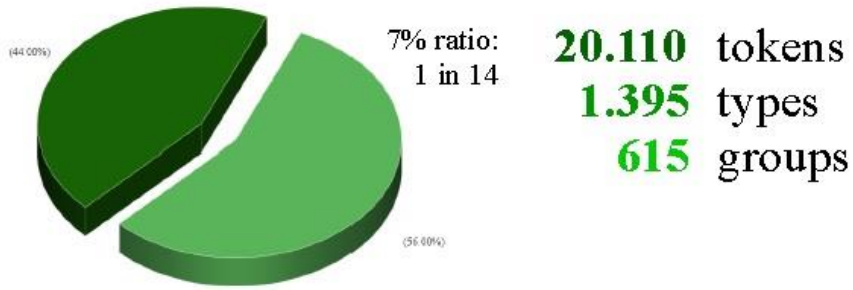

Figure 1. *CEAA* word tokens, types and groups ratio

On the other hand, on the linguistic level the English version of the *CEAA* – parsed using a free online Corpus Analysis software –[15] counts more than twenty thousand words (tokens) and circa one thousand four hundred word types, with seven percent ratio that involves a relationship of one new word/term conveyed every fourteen full or partial repetitions (see figure 1), and including a linguistic pattern which would recall the presence of about six hundred word-families/groups thus reporting forty-four to fifty-six percent ratio of variation. Indeed, about one-in-two word-types are actually ascribable to the same content or contextual meaning as they only differ on the grammatical level when occurring as verbs rather than nouns, adjectives or adverbs. As a matter of fact, it is worth noting that said multifaceted class of texts is reckoned as "a formal, non-emotive, technical style for academic papers characterized in English by passive, present and perfect tenses, literal language, Latinised vocabulary, jargon, multi-noun compounds with 'empty' verbs, no metaphors".[16] Similar data necessarily induce to subsequent considerations on the lexical density of the Act, where the amount of words and terms adopted to render the jurisprudence does not automatically include a high level of variation, hence summoning frequent redundancy (through derivational morphology as well as through full repetitions), and accordingly involving a very limited terminological thesaurus which – at some extent – could contribute to the ease of reading, understanding and interpreting the law by a different public of users ranging from experts to laymen at the same time.

Furthermore, the main observations were conducted on the keywords contained in the title and then to be retrieved within the rest of the document, finding once more that they are disseminated throughout the Act via full or partial repetition. Therefore, the occurrence plots of 'environment(-al)'

[15] Laurence Anthony, *AntConc 3.5.7*, computer software (Tokyo, Japan: Waseda University, 2018), http://www.laurenceanthony.net/software.
[16] Ibid. 40.

and ‘act(-ing; -ion-s)’ traces some more values to be considered (see figure 2). The mentioned terms formally and equally occur only in their adjectival (two hundred and fifty-three hits) and nominal (two hundred and fifty-two hits) forms respectively, while other variants are rarely found: nonetheless, the noun ‘environment’ reaches 23 occurrences, albeit ‘act’ suffixations and derivational morphemes do not exceed the totality of 14 recurrences. What has just been described in consideration of the first two terms is also valid for ‘assessment’, on the whole always associated with those, but also including derivational forms as numerous as its co-occurring terms affixations (see figure 2), such as plurals or the most significant verbal class – ‘assessing’ – denoting actions to be taken for accomplishing the evaluative procedures.

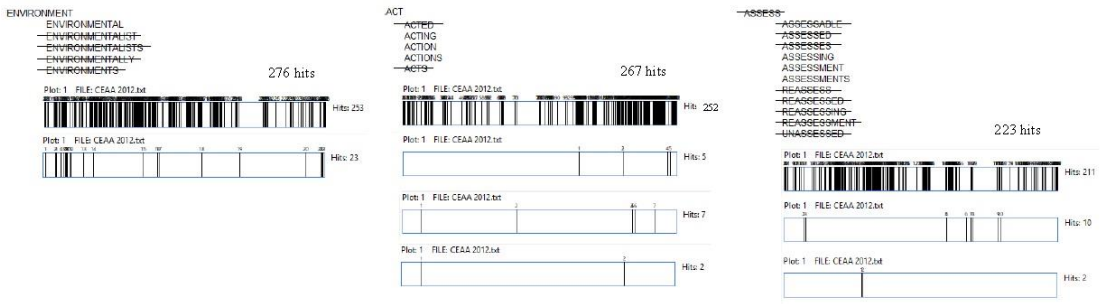

Figure 2. *CEAA* title terms recurrence plots

Despite the scarce amount of repetitions of similar derivational morphemes as much as the comparable number of hits between ‘environment’, ‘action(s)’, and ‘assess-’ (this latter being considered now in its verbal form), the value of any Act is to prescribe and set actual procedures to regulate and give directives on specific matters. As a consequence, considering the tendency to erasing the agent’s presence in phrastic contexts via the usage of depersonification strategies or the abundance of passive voices mostly after gender-sensitive modifications applied to Canadian legal documents since 1995,[17] the utter recurrence of verbs in their active voice also denotes the introduction of primary subjects (such as Governmental Head Departments or Functionaries embodying the Organs) exploiting the task they are in charge to enact or supervise (see ex. 1, all the examples are from the CEAA of 2012 and numbered progressively).

[17] British Columbia Law Institute, *Gender-Free Legal Writing: Managing the Personal Pronouns* (Vancouver: British Columbia Law Institute, 1998).

Ex. 1

32(1) Subject to section 33 and 34, if the **Minister** is of the opinion that a process for assessing the environmental effect of designed projects that is followed by the government of a province – or any agency or body that is established under an Act of the legislature of a province – that has powers, duties or functions in relation to an assessment of the environmental effects of a designed project would be appropriate substitute, the **Minister** must, on request of the province, approve the substitution of that process for an environmental assessment.

The intricacy of the Legal Discourse conveyed thus is not only given by the high fragmentation induced by the already described commatic structure, but also through sentence construction techniques preferring typical post modification expedients involving the proliferation of hypotaxis for intra-textual references to other sections listed within the document, along with the need for redundant terminology recurrence often reiterating action performers – when elicited – or syntactic objects to be considered (see ex. 1). Yet, being 'assessment' (as an act and/or a process to be carried out) the core of such observations, it would also be worth noting the collocation list in consideration of its direct and indirect objects, finding solid matches with (environmental) effects related to a 'designated project' (see figure 3).

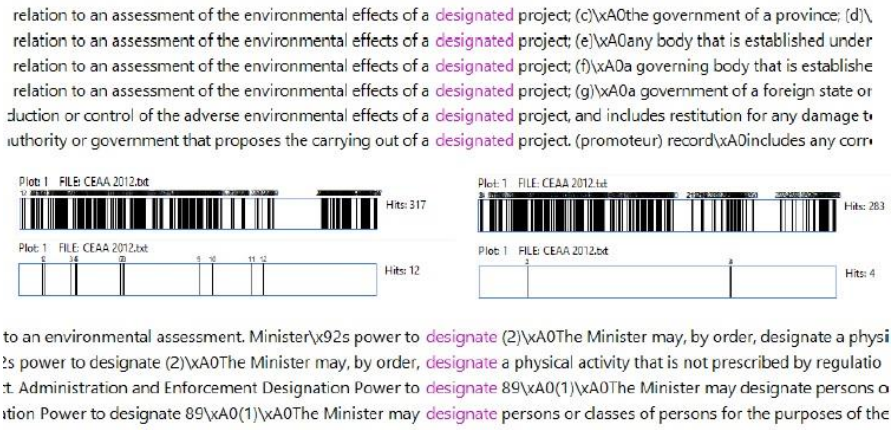

Figure 3. *CEAA* 'designated project' occurrence plot and collocations

As one would understand, the actual assessment should involve a precise *object* to be examined and judged as adequate for its completion. The addressee of said investigation then should expressly be a 'project', in this draft labelled as 'designated project' (see ex. 2 and 3), since it also has to adhere with specific criteria and be approved by named organs or agencies which today are represented by the National Energy Board and the Canadian Nuclear Safety Commission, if not "designated" by the

Minister (see ex. 3) of the Environment.

> Ex. 2
> 57 The Agency must establish a participant funding program to facilitate the participation of the public in the environmental assessment of **designated projects** that have been referred to a review panel under section 38.

> Ex. 3
> ***Designated project*** means one or more physical activities that
> **(a)** are carried out in Canada or on federal lands;
> **(b)** are designated by regulations made under paragraph 84(a) or designated in an order made by the Minister under subsection 14(2); and
> **(c)** are linked to the same federal authority as specified in those regulations or that order.
> It includes any physical activity that is incidental to those physical activities. (*projet désigné)*

Both the examples reported here propose again cases of redundancy and intra-textuality already described and always deployed to emphasise the need for constant internal connections and implicatures: within the English version of the document one could steadily find even references to the CEAA French version as well (see ex. 3). Nonetheless, as for the 'assess-' case, the term 'designated' is here employed in both its adjectival and verbal forms to contemporaneously refer to the appointed project and the authorising Entity, once more relinquishing the Legal Discourse praxis foreseeing the indirect description of the actions of diaphanous Organs of Control by specifically mentioning them along with their functions (see ex. 3).

If many elements described so far are constant features of the Legal Discourse structure and transmission, that some scholars could have predicted to find, there are although other aspects that one would indeed expect to retrieve in an Act, and yet this case study is surprisingly missing (see ex. 4).

> Ex. 4
> (9) If the review panel's environmental assessment of the designated project to which the application relates is terminated by the Minister of the Environment under subsection 49(1) or (2) of the *Canadian Environmental Assessment Act, 2012*, or is considered to have been terminated under subsection (8),
> **(a)** despite section 50 of that Act, the Board **shall** complete the environmental assessment of the designated project and prepare a report with respect to the environmental assessment; and....

As a matter of fact, a main recurring syntactic particle of the English Legal language is the modal 'shall', often (over-)used in the discipline in order to grant the text its most authoritative aim in

prescribing and setting mandatory parameters and obligations to be performed, accomplished or simply acknowledged by Legal Discourse users, being them experts, professionals, or common citizens. Contrariwise, the sole occurrence of such verb in the *Environmental Assessment Act* (2012) consists in the disposition of having the National Energy Board to conclude its evaluative examination within a given duration and in compliance with specified clauses (see ex. 4). Under the same perspective, it seems likewise peculiar to trace, instead, ten occurrences of the modal 'will' (see ex. 5), which is *per se* considered as referring to personal volition and that, hence, one would not expect to find that much in a similar text and with a wider usage than the aforementioned 'shall', which is oppositely associated with a compulsory meaning. Yet, it is also true that "the use of 'shall' in legal acts [is] related to the ambiguity of its meaning which is considered to be against the rules of drafting techniques. As a result ... the use of *shall* in Legal English is none other than an archaism which causes interpretation problems for legal specialists, translators, and lay readers".[18]

> Ex. 5
> Authority to issue warrant
> (2) On *ex parte* application, a justice may issue a warrant authorizing a designated person who is named in it to enter a dwelling-house, subject to any conditions specified in the warrant, if the justice is satisfied by information on oath that ...
> **(c)** entry was refused by the occupant or there are reasonable grounds to believe that entry **will be refused** or that consent to entry cannot be obtained from the occupant.

> Ex. 6
> (2) The Minister's determination regarding whether the referral of the environmental assessment of the designated project to a review panel is in the public interest **must** include a consideration of the following factors....

As a consequence, labelling the use of 'shall' in Legal English as ungrammatical then implies the big issue of 'how to substitute it?' The problem has been largely debated over the years, proposing an apt adaptation of such Specialised Discourse intricacy to be given up to the advantageous replacement of it via the introduction of a Plain Legal English:

> Beginning in the US in the late 1970s, the movement soon spread to Canada and the UK, but it was in Australia and New Zealand that the proposals of restyling legislative texts were first accepted by the Offices of Parliamentary Counsel as early as the late 1980s. Canada and post-apartheid South Africa also

[18] Olga A. Krapivkina, "Semantics of the Verb *Shall* in Legal Discourse", *Jezikoslovlje*, 18.2 (2017), 305.

> implemented changes in the way some (though not all) of the English versions of their laws were drafted. But in the US, despite early successes, progress were generally slow, and in the UK there were few signs of a willingness to change.[19]

As anticipated, the Legal Language reformation in Canada – despite the good purposes already displayed in between the 1970s and the 1980s – found effective application since the 1995 redesigns of legal documents in compliance with gender-sensitive requirements and simplification norms befalling the linguistic code in object.

At that extent, besides the unexpected use of 'will', it is possible to affirm that over the years – and after the application of clarifying discourse strategies – the expressiveness and the communicativeness of the legal linguistics praxis has eventually changed, being (specialised) languages "symbol system[s] based on pure arbitrary conventions ... infinitely extendable and modifiable according to the changing needs and conditions of speakers".[20] Thus the avoidance of any ungrammatical usages of modals imposed a careful employment of attenuative, concessive forms (e.g. 'may', one hundred and nine hits) and limitations in the specific use of 'shall', utterly substituted by its less formal but as mush peremptory equivalent 'must', with one hundred and seventy occurrences (see ex. 6).

Also, in accordance with neutralisation requirements, Legal Language has undergone some gender adaptations which requested to delete any male connoted references throughout the legal documents in order to shape a newly inclusive language which would have fitted both men and women's needs (in terms of duties and rights as well), inasmuch as "it is clear that language not only reflects social structures but, more importantly, sometimes serves to perpetrate existing differences in power; thus, a serious concern with linguistic usage is fully warranted".[21] Therefore, the elimination of performing agents' presence in sentences has been introduced and flanked – wherever the camouflage was not possible – by the insertion of plural, collective nouns and pronouns in place of the original male ones (see ex. 7), or by the explication of the two recognised genders in their singular number (see ex. 8).

> Ex. 7
>
> Person accompanying designate person
>
> (2) A person may, at the designated person's request, accompany the designated person to assist **them** to gain entry to the place referred to in subsection 90(1) and is not liable for doing so.

[19] Christopher Williams, "Legal English and Plain Language: An Update", *ESP Across Cultures*, 8 (2011), 140.
[20] Pushpinder Syal, *An Introduction to Linguistics. Language, Grammar and Semiotics* (Delhi: PHI Learning, 2007), 3.
[21] Francine Wattman-Frank, "Language Planning, Language Reform and Language Change: A Review of Guidelines of Nonsexist Usage", in Francine Wattman-Frank and Paula Treichler, eds., *Language, Gender and Professional Writing* (New York: The Modern Language Association, 1989), 105.

Ex. 8

(2) The Minister may also approve the substitution of a process that has already been completed for an environmental assessment if **he or she** is satisfied that the conditions under subsection (1) have been met.

Eventually, the main concern of this paragraph is to delve into the main elements of discontinuity emerging from the comparison of the *Environmental Assessment Act* drafted in 2012 and its original version to be dated 1992. Such contrastive study does not merely focus on the unfitting alignment of the features described so far for the *CEAA* of 2012, since they generally are all dependent on the mentioned language modification criteria listed in 1995 and it would thus conduce the paper to an endless play of theatre mirrors reflecting on evident disparities which are not symptomatic of natural linguistic evolutive changes, but to *ad hoc* regulations to be rigorously applied, respected by law, and perfectly schematised in the existing manuals on the matter. Although, the differences that are placed here under the spotlight involve some structural, textual changes along with other terminological (and not only grammatical) finishing touches (see figure 4).

CEAA (1992) S.C. 1992, c. 37	CEAA (2012) S.C. 2012, c. 19, s. 52
Statement of purpose	OMISSION of preamble and purpose
Applicability: projects	Applicability: **designated** projects
Validity: **throughout** environ. assessment	Validity: **during** environ. Assessment (to be completed in a *timely* manner)
Larger Inclusion list regulation, which riquired screening reports for *any* activity	Regulation on physical activities includes agencies allowed to issue licences within the duration of the assessment
Expert-to-Expert communication	De-technified language to be accessed by laymen as well
Assessment report required w/i 12 months	Assessment report required w/i 12 months

Figure 4. Canadian *Environmental Assessment Acts* comparison (1992; 2012)

At first sight, one immediate difference between the two drafts is the alteration of the initial statement of purpose and the following preamble. Indeed, while the Act of 1992 arranged a preliminary sentence in which briefly summarise the aims (see ex. 9) then supported by a further list of considerations, the newest modification of the sanctioning paper appears quite as brief as the original one (see ex. 10), but the extensive and highly informative *whereas clauses* missing mostly generates ambiguity.

Ex. 9

An Act to establish a federal environmental assessment process.

WHEREAS....

NOW, THEREFORE, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows....

Ex. 10

An Act respecting the environmental assessment of certain activities and the prevention of significant adverse environmental effects [Assented to 29th June 2012]....

Where the document dated 1992 specifies the assessment is strictly related to the achievement of sustainable development, the enhancement and promotion of the Canadian economic and environmental quality – portraying the frame into which construe the environmental scenario of the Act –, the latest redraft chooses not to mention that, running up against a mischievous formulation undoubtedly adopting an uncertain adjectival usage ('certain activities') and sending an unclear message. Indeed, while the purpose of the 1992 Act was to 'establish' a federal assessment, the goal of the 2012 version is now to 'respect' the assessment and the prevention of adverse effects evaluations. As a consequence, the texts already diverge in their first statement, having on the one hand an older but proactive document with an authoritarian prestige actually 'doing' something on a matter; on the other hand, a new and improved text which, however, preliminarily declares 'to be attentive' in consideration of some environmental assessment that, instead, should itself utter to be defining.

Moreover, the already described polyrematic 'designated projects' of the *CEAA* of 2012 contrasts with the broader and non-adjectivated noun 'project' of the 1992 version. Such question is tightly connected with interpretation problems, since originally the *CEAA* was thought to be applied to 'any' project involving physical activities and to refuse potential limitations justified by the intervention of extra-governmental organs or agencies, that today play a very important role in taking decisions on appraisals and evaluations. Subsequently, the current Act is less restrictive than in the past, with possible and contingent consequences on the environment and on the impact that authorised activities could have on it.

Similarly, the described applicability penalisation seems to be directly proportional to validity diminishment implications. Despite the fact that the first Act was designed to set a spatial and temporal coverage that would guarantee the integrity of any environment to be preserved 'throughout' the assessment (see ex. 11), the adverb has now long disappeared, supplanted by 'during' (see ex. 12).

Ex. 11
Duties
12.2 The federal environmental assessment coordinator shall ...
(c) coordinate the involvement throughout the environmental assessment process;

Ex. 12
Authority's reporting duty
72(1) The authority referred to in paragraph (b) of the definition ***authority*** in section 66 must, each year, report on its activities during the previous year under sections 67 and 69.

On a linguistic level, such modification would lead to interpretations that could actually justify misbehaviours of the Companies exploiting their projects as much as of the Organs of Control, being them urged to assess or operate sporadically while activities are taking place, rather than adopting a constant evaluation of their deeds from the very moment in which the project starts to the utmost and formal end of it. Indeed, while the adverb 'throughout' implied (and it still linguistically does) something to be performed incessantly from a beginning to its complete termination, 'during' involves a less binding linguistic (and thus legal) meaning, where the performance has to be carried out in adherence with a first start and within a deadline, but with possibilities of accomplishing the task intermittently working on it.

Eventually, assessment periods have now almost the same duration they were warranted in 1992 (twelve months). Nonetheless, in the past only governmental authorities could express their opinions on projects affected by assessment operations; oppositely, today projects assessments are open to any comment people directly involved by the activities included would formulate, possibly influencing commissions to take their own decisions on whether authorising the proposals or not. The topic would therefore easily find its very speculative milieu within the Media Discourse context too, as inclusive of "any interactions that take place through a broadcast platform, whether spoken or written, in which the discourse is oriented to a non-present reader, listener or viewer".[22] Indeed, one peculiar aspect of the CEAA is the fact that every project deemed to undergo the assessment has to be uploaded online for the public perusal through a guided procedure detailed on the Government of Canada website,[23] where citizens could find a registry multimodally reporting information about public participations, external links with regulations and submission procedures, or the possibility to browsing the project list specifically checking activities by reference numbers, scrolling the archive, or even focusing on precise

[22] Anna O'Keeffe, "Media and Discourse Analysis", in James P. Gee and Michael Handford, eds., *The Routledge Handbook of Discourse Analysis* (London: Routledge, 2011), 441.
[23] Government of Canada, "Canadian Environmental Assessment Registry", https://www.ceaa-acee.gc.ca/050/evaluations/?culture=en-CA, accessed 29 July 2018.

geographical areas of Canada via a real time interactive map pinned wherever ongoing initiatives are being carried out. A similar examination would proffer any individuals willing to benefit from the opportunity of expressing their idea the chance to post a public comment, informing readers (both lay audiences and Board members) about possible pros and cons affecting the procedures related to any project waiting for a formal approval. This way, people's reactions constitute an actual environmental sensitization pragmatic corpus of testimonies (lending itself to potential cultural and linguistic surveys) firing up disputes over the eventual (dis-)advantages that the exploitation could lead to. As a matter of fact, the section reports extensive lists of links forwarding users to PDF versions of single comments ranging from three lines long contributions up to one hundred pages reports, all annotated with posting dates and writers' names.[24] Such process, however, easily associating professionals' evaluative procedures or personal opinions with profanes' emotional formulations often driven by ideological and populist motivations –once more– proves the impracticability of the path unifying expert-to-expert and expert-to-laypeople levels of interaction.

This (interferential) appraisal of legal issues would frequently bring to life equivocal and pointless disputes over sensible questions. A similar process of assessment democratisation via narrowing the gap between lay people and State apparatuses, allowing citizens to embrace an active role in evaluating public works and tasks which involve the surrounding milieu they are immersed also required great efforts in terms of linguistic simplification. That would be one of the many reasons behind the Plain Legal Language modifications finally de-technifying and adapting the expressive codes adopted within the described textual classes.

There have been described the main and most relevant disparities occurring on a textual, linguistic and content levels between the first Act of 1992 and its 2012 modification currently in force. Some elements, such as the erasure of Purpose and Preamble statements are peculiar of redrafting procedures, tending to amend, abrogate or repeal unnecessary parts of old legal materials (such as superfluous or redundant sections; forfeiture of specific articles due to law renovations; etc.), in order to streamline documents and create fitting and up-to-date versions in accordance with social and legal system changes in time. Some other assets of Legal Discourse have been conversely inserted to specifically outcome adequate alterations of archaic and much patriarchal linguistic heritages involving the consolidation of masculine reference usages for both singular and plural forms implicitly inclusive of the feminine gender, this latter being lately declared to be clearly mentioned wherever neutral pronominal and adjectival particles are not possible. Such modifications are, indeed, flanked by other interventions necessary for changing more obsolete usages, such as the utter substitution of the original

[24] Government of Canada, "Public Participation Opportunities during an Environmental Assessment", https://www.ceaa-acee.gc.ca/050/evaluations/Participation?Type=1&culture=en-CA, accessed 29 July 2018.

modal 'shall' (which however, in the *CEAA* of 1992 counted none other than one hundred and seventy-three occurrences) with its tweaked equivalent 'must', less formal but certainly as imperative as the former verb. Nonetheless, similar overturns regarding the replacement of some outdated terminology to be given up to some other could eventually unbalance the linguistic significance and the legal applicability of Acts like the one described in this paper, for merely pursuing the aim of a complete understandability by the entire public of users mustering at the same time the highest and lowest levels of competence and expertise on the matter. As a consequence, the abuse of Plain Language adaptations and de-technification procedures would happen at expense of Specialised Discourses expressibility and communicativeness, which intricacy is not a perverse linguistic trick, but the result of extremely careful and studied conveyance of specific monoreferential meanings expressly coined to avoid possible cases of ambiguity and interpretation uncertainties in crucial situations (such as the legal one) which are instead likely to occur then.

3. Conclusions

In consideration of the issues signalled in this paper it would be possible to narrow down a few interesting facts which have emerged so far. Starting from a contextualised perspective, it would be easy to guess the reason why Environmentalism is one burning problem in Canada (the Country hosting nine percent of the world's forests and counting three hundred and forty-seven million hectares),[25] rooted way back in the past, to arrive to the best known events ranging from the early 1990s 'War in the Woods' driven by Clayoquot Sound and British Columbia demonstrations against the formerly consolidated clearcutting and logging practices – a protest then recognised as the "largest act of civil disobedience in Canadian history" – or the anti-nuclear movements risen up in the first decade of the nineteenth century.[26] Thus the sensitization levels which peaked in 2013, when statistics revealed almost eighty-five percent of Canadians households have parks or green areas close home, along with modernised spending reviews and statutes on environmental protection.[27]

A consequential point would involve the idiosyncrasies putting such attentive inner approaches to contrast with International Policies that, if on the one hand allow Canada to take responsible advantage of its resources to be traded all over the world, on the other hand they also enslave and force it to

[25] Government of Canada, "How Much Forest Does Canada Have?", https://www.nrcan.gc.ca/forests/report/area/17601, accessed 16 July 2018.

[26] Peter Grant, "Clayoquot Sound", *The Canadian Encyclopedia* (2010), https://www.thecanadianencyclopedia.ca/en/article/clayoquot-sound, accessed 16 July 2018.

[27] Statistics Canada, "Environment Fact Sheets", https://www150.statcan.gc.ca/n1/en/catalogue/16-508-X, accessed 16 July 2018.

undergo conditions limiting its powers in terms of environmental protection from beyond border polluting actors (e.g. the Canadian vs. U.S. *querelle* of the 'Windsor Hum').

However, the legal implicatures connected to the Environmental applicability are also strictly related to the language and the linguistics adopted to communicate and enact the formulae of the law, which every citizen has to comply with independently from their competence and educational background. Subsequently, it is of course true that the goal of drafting legal documents to be accurately reachable by experts as well as by lay people is noble, and that 'correct' Plain Legal English modifications are without doubt advisable; however, it is also true that the indiscriminate over-use of theoretical simplifications – such as the one that could be launched by the CEAA peculiarity of being accessible via the internet and commentable by anybody – is actually unpracticable and could lead to a final frustration of the Legal (as of any other) Discourse through the making of a hybrid and imperfect code. Hence, in the opinion of this paper, any simplification activities should not directly affect the nature and the denotative linguistics of Specialised Discourses, since the simultaneous reaching of every level of competence through a unique all-inclusive text would just resolve into the flattening of users' proficiency. On the contrary, it could be much of aid to maintain the expert/professional-oriented legal (as well as scientific, medical, etc.) document linguistic essence and level of technification, and then operate divulgation procedures mostly finalised at creating parallel laypeople-targeted textual versions of the originals to be explicatory and exemplified. Instead of annihilating the highest degrees of knowledge and linguistic awareness, the use of Plain Legal English strategies could be used to lecture and increase the linguistic competences of citizens according to bottom-up perspectives, rather than up-to bottom drops.

Furthermore, running on the silver thread of the countless cultural, linguistic and social problems deriving from the situation described so far, one huge issue related to the *Canadian Environmental Assessment Act* that can be deduced from its web-based resonance is that it has, ever since 2012, originated public dissatisfaction for its ambiguous, contorted and seemingly partial applicability (and actual application), also causing mistrust and concern in terms of the Provincial, national and international scales. Hence, in accordance with diagnoses inferred by many experts in the field of Law, it should be noted that "in order to modernise the environmental assessment process, tinkering with the existing legislation is not enough",[28] and Canadian citizens are currently demanding a renewed evaluative system redefining a legislative framework which could feasibly approach the future matters with more adequate overtures.

[28] Supriya Tandan, "How to Fix Canada's Broken Environmental Assessment Framework", *National: The Power of Perspective*, 2017, http://www.nationalmagazine.ca/Articles/February-2017/How-to-fix-Canada-s-broken-environmental-assessmen.aspx, accessed 29 July 2018.