Legislative Drafting
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1. Addressees

1. Introduction

Who reads your laws?
1. Addressees

2. Addressees' Pyramid

<table>
<thead>
<tr>
<th>Possible addressees</th>
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</thead>
<tbody>
<tr>
<td>- Everybody?</td>
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<tr>
<td>- Persons affected?</td>
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<tr>
<td>- Interested laymen?</td>
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<tr>
<td>- Facilitator?</td>
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<td>- Specialists?</td>
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<td>- Administrative authorities, courts?</td>
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</tbody>
</table>

Multiple addressees?
1. Addressees

2. Addressees' Pyramid

*"Laymen do not read laws" (GEORG MÜLLER)

*"Laien lesen keine Gesetze"

Who reads legislation and why?

While lawyers represent an important group of readers of legislation, typically accessing legislation through a subscription service (whether online or hard copy), there is now a very large audience of non-lawyers who will typically access United Kingdom legislation through www.legislation.gov.uk, which is a free-to-access United Kingdom government site run by The National Archives. The site has around 2 million separate visitors per month and provides more than 400,000,000 page impressions per year.
I. Addressees

3. Right to Understand

Popular Initiative (Switzerland)

"Every person has a right to laws [...] that are **understandable** and simply, unbureaucratically and efficiently implemented [...]."

Swiss Official Journal (Bundesblatt) 2010, p. 6633

"Toute personne a droit [...] à des lois compréhensibles et à leur application simple, non bureaucratique et efficace [...]."  (FF 2010, 6047)
I. Addresseees

3. Right to Understand
I. Addressees

3. Right to Understand

"Legislator must clearly and exhaustively draw the public's attention to the content of its legislative decision, otherwise the law-abiding citizen will not be able to comply with the norm and to behave accordingly. Neither does satisfy this requirement a norm which requires qualified legal ability and experience as well as archivist diligence, nor one that requires subtle constitutional knowledge, extraordinary methodological ability and a certain desire to solve brain-teasers." (Austrian Constitutional Court)

"Der Gesetzgeber muss der breiten Öffentlichkeit den Inhalt seines Gesetzesbeschlusses in klarer und erschöpfender Weise zur Kenntnis bringen […], da anderenfalls der Normunterworfeene nicht die Möglichkeit hat, sich der Norm gemäß zu verhalten. Diesem Erfordernis entspricht weder eine Vorschrift, zu deren Sinnermittlung qualifizierte juristische Befähigung und Erfahrung sowie geradezu archivarischer Fleiss vonnöten ist, noch eine solche zu deren Verständnis subtile verfassungsrechtliche Kenntnisse, außerordentliche methodische Fähigkeiten und eine gewisse Lust zum Lösen von Denksport-Aufgaben erforderlich ist."
I. Addressees

3. Right to Understand

Plain language is desirable but …

… may be less precise,

… may pretend simplicity but conceal the complexity of the law,

… may be more difficult to read for experts,

… may falsely suggest to laymen that all legal aspects have been resolved.
II. Normativity

1. Essence of Law

"A cleaning schedule must be established for all production facilities. Planning prevents that inappropriate cleaning procedures affect the quality of milk and of milk products"

(Example of the Swiss Federal Chancellery)
II. Normativity

1. Essence of Law

"Low-beam lights shall also used during the day."

(Example of the Swiss Federal Chancellery)
II. Normativity

1. Essence of Law

Laws contain norms (rules) and nothing but norms. They should not encompass

... descriptions

... explanations,

... reasons,

... declarations

... calls and appeals,

... motives of the law.

Gesetzgebungsleitfaden des Bundes, Bern 2007, N. 926

Erlasstexte formulieren Normen und (fast) nichts anderes als Normen. In einem Erlasstext haben nichts verloren:

- Beschreibungen eines Sachverhalts;
- Erklärungen, warum etwas so ist, wie es ist;
- Begründungen, warum eine Norm aufgestellt wird;
- Appelle an die Adressatinnen und Adressaten;
- Deklarationen von politischen Absichten;
- Motive und Ziele für den Erlass oder einzelne Bestimmungen.
II. Normativity

2. Purpose Article and Preambles

I

(Acts whose publication is obligatory)

of 11 February 2004
establishing common rules on compensation and assistance to passengers in the event of denied
boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91
II. Normativity

2. Purpose Article and Preambles

(1) Action by the Community in the field of air transport should aim, among other things, at ensuring a high level of protection for passengers. Moreover, full account should be taken of the requirements of consumer protection in general.

(2) Denied boarding and cancellation or long delay of flights cause serious trouble and inconvenience to passengers.
II. Normativity

3. Legal Definitions

For the purposes of this Regulation:

(a) ‘air carrier’ means an air transport undertaking with a valid operating licence;

(b) ‘operating air carrier’ means an air carrier that performs or intends to perform a flight under a contract with a passenger or on behalf of another person, legal or natural, having a contract with that passenger;

(c) ‘Community carrier’ means an air carrier with a valid operating licence granted by a Member State in accordance with the provisions of Council Regulation (EEC) No 2407/92 of 23 July 1992 on licensing of air carriers (7);

(d) ‘tour operator’ means, with the exception of an air carrier, an organiser within the meaning of Article 2, point 2, of Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours (7);

(e) ‘package’ means those services defined in Article 2, point 1, of Directive 90/314/EEC;

(f) ‘ticket’ means a valid document giving entitlement to transport, or something equivalent in paperless form, including electronic form, issued or authorised by the air carrier or its authorised agent;

(g) ‘reservation’ means the fact that the passenger has a ticket, or other proof, which indicates that the reservation has been accepted and registered by the air carrier or tour operator;

(h) ‘final destination’ means the destination on the ticket presented at the check-in counter or, in the case of directly connecting flights, the destination of the last flight; alternative connecting flights available shall not be taken into account if the original planned arrival time is respected;

(i) ‘person with reduced mobility’ means any person whose mobility is reduced when using transport because of any physical disability (sensory or locomotor, permanent or temporary), intellectual impairment, age or any other cause of disability, and whose situation needs special attention and adaptation to the person’s needs of the services made available to all passengers;

(j) ‘denied boarding’ means a refusal to carry passengers on a flight, although they have presented themselves for boarding under the conditions laid down in Article 3(2), except where there are reasonable grounds to deny them boarding, such as reasons of health, safety or security, or inadequate travel documentation;

(k) ‘volunteer’ means a person who has presented himself for boarding under the conditions laid down in Article 3(2) and responds positively to the air carrier’s call for passengers prepared to surrender their reservation in exchange for benefits;

(l) ‘cancellation’ means the non-operation of a flight which was previously planned and on which at least one place was reserved.
II. Normativity

3. Legal Definitions

Legal Definitions are valuable tools (consistency, shortness) but avoid

... self-evident definitions,
... "surprise" definitions,
... definitions with normative content.

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III. Legal Architecture

1. Structure of the Legal Order
III. Legal Architecture

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III. Legal Architecture

1. Structure of the Legal Order

- Constitution
- Law A
- Law B
- Law C
- Law D
- Secondary Legislation

- Constitutional Transgression
- Overlapping Scope

- Unnecessary Norms
- Gaps
III. Legal Architecture

2. Scope

Before a new law is passed,…

… one must examine whether an existing law may be amended, and in case of a new law whether it fits into the legal order, i.e. the scope of the new law is well tailored

… personally,

… in substance,

… geographically,

… temporally.

Errors in scope typically lead to unclear legal situations.
III. Legal Architecture

2. Scope

817.0

*English is not an official language of the Swiss Confederation. This translation is provided for information purposes only and has no legal force.*

**Federal Act**
**on Foodstuffs and Utility Articles**
*(Foodstuffs Act, FSA)*

of 20 June 2014 (Status as of 1 May 2017)
III. Legal Architecture

2. Scope

Scope in substance (example)

Art. 2 Scope of application

1 This Act applies to:
   a. the handling of foodstuffs and utility articles, i.e. their manufacture, processing, storage, transport and placing on the market;
   b. the labelling and presentation of foodstuffs and utility articles, their advertising and the information provided about them;
   c. the import, export and transit of foodstuffs and utility articles.

2 It applies to all production, processing and distribution levels, including primary production, provided they are relevant to the manufacture of foodstuffs or utility articles.

3 This Act applies to imported foodstuffs and utility articles, unless Switzerland is otherwise obliged in terms of an international treaty.

4 This Act does not apply to:
   a. the primary production of foodstuffs for private domestic use;
   b. the import of foodstuffs or utility articles for private domestic use; paragraph 5 is reserved;
   c. the domestic manufacture, handling and storage of foodstuffs and utility articles for private domestic use;
   d. substances and products subject to the legislation on therapeutic products.

5 The Federal Council may restrict the import of foodstuffs or utility articles intended for private domestic use.
III. Legal Architecture

2. Scope

Explicit regulation on scopes (example)

Chapter 3\textsuperscript{41} Handling Organisms

Art. 29a Principles

1 Organisms must be handled in such a way that they, their metabolic products or wastes:
   a. cannot endanger the environment or people;
   b. do not harm biological diversity or its sustainable use.

2 The handling of genetically modified organisms is governed by the Gene Technology Act of 21 March 2003\textsuperscript{42}.

3 Regulations in other federal acts that serve to protect people’s health against immediate danger from organisms are reserved.
III. Legal Architecture

3. Inner Structure of a Law

- Purpose / aim
- Legal definitions
- Scope
- General principles

Law A

Substantive provisions in
- logical,
- chronological, or
- factual
order, if possible.

- Implementation
- Evaluation clauses
- Transitional provisions
- Sunset clauses
- Commencement
IV. Legal Language

1. Rules of Thumbs (UK)

The pursuit of clarity - general rules

1. Write simply but precisely.
2. Draft for users with their various standpoints always in mind.
3. Be very clear about the purposes of the legislation and make sure that purpose is manifest.
4. Organise material logically, and chronologically where appropriate, at every level (ie the whole statute, Parts, Subparts, sections, schedules).
5. Consider the use of supplementary aids to facilitate communication (diagrams, examples, notes, etc).
6. Develop consistency of style and approach.
7. Revise the text with simplicity and precision in mind (as often as circumstances permit).
8. Test the draft in relation to comprehensibility.

HELEN XHANTAKI, Thorntons's Legislative Drafting, 5th ed., West Sussex 2013, pp. 57 seq.
IV. Legal Language

1. Rules of Thumbs (UK)

The pursuit of clarity - rules for drafting sentences

10. Avoid long sentences, particularly if unparagraphed.
11. Prefer the active voice to the passive.
12. Prefer the positive to the negative.
13. Avoid double negatives and beyond.
14. Follow conventional word order.
15. Don’t split verb forms unnecessarily.
16. Paragraph with restraint and care.
17. Avoid subparagraphs and sub-subparagraphs.
18. Avoid nominalisations.
19. Use cross-references with restraint.
20. Punctuate conventionally and with restraint.

HELEN XHANTAKI, Thorntons's Legislative Drafting, 5th ed., West Sussex 2013, pp. 57 seq.
IV. Legal Language

1. Rules of Thumbs (UK)

The pursuit of clarity - rules for drafting sentences

21. Omit unnecessary words.
22. Prefer the familiar word.
23. Choose the exact word.
25. Avoid non-English expressions.
26. Avoid emotive words.
27. Use informal and recently coined words with distractions.
28. Use one word and not more if one word will do.
29. Use words consistently.

HELEN XHANTAKI, Thorntons's Legislative Drafting, 5th ed., West Sussex 2013, pp. 57 seq.
IV. Legal Language

2. Swiss Rules (Eugen Huber)

Eugen Huber, Drafter of Swiss Civil Code of 1907

- No more than three paragraphs per article
- Only one sentence per paragraph
- Only one norm per sentence
- Short and easy sentences
- Cross references only by words (content)
IV. Legal Language

2. Swiss Rules (Eugen Huber)

English is not an official language of the Swiss Confederation. This translation is provided for information purposes only and has no legal force.

Swiss Civil Code

of 10 December 1907 (Status as of 1 January 2018)

Art. 541

b. Effect on issue

1 Unworthiness to inherit applies only to the person concerned.
2 His or her issue inherit from the deceased as if the person unworthy to inherit were predeceased.
IV. Legal Language

2. Swiss Rules (Eugen Huber)

Art. 542
1. In order to inherit, an heir must be alive and capable of inheriting at the time of succession.
2. If an heir dies after commencement of succession, his or her rights of inheritance in respect of the estate pass to his or her own heirs.

Art. 543
1. A legatee surviving the testator and capable of inheriting acquires a claim to the legacy.
2. If he or she dies before the testator, his or her legacy is extinguished in favour of the person who would have been obliged to deliver the legacy to him, unless some other intention is evident from the disposition.

Art. 544
1. A child is capable of inheriting from the moment of conception onwards, providing he or she is subsequently born alive.
1bis If it is required to protect the child's interests, the child protection authority shall establish a deputyship.\textsuperscript{448}
2. If the child is stillborn, it is disregarded for inheritance purposes.\textsuperscript{449}
Cite as: 576 U. S. ___ (2015)

Opinion of the Court

NOTICE: This opinion is subject to formal revision before publication in the
preliminary print of the United States Reports. Readers are requested to
notify the Reporter of Decisions, Supreme Court of the United States, Washing-
ton, D. C. 20543, of any typographical or other formal errors, in order
that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

No. 13–7120

SAMUEL JAMES JOHNSON, PETITIONER v. UNITED
STATES

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE EIGHTH CIRCUIT

[June 26, 2015]
The Act defines “violent felony” as follows:

“any crime punishable by imprisonment for a term exceeding one year . . . that—

“(i) has as an element the use, attempted use, or threatened use of physical force against the person of another; or

“(ii) is burglary, arson, or extortion, involves use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another.” §924(e)(2)(B) (emphasis added).
Two features of the residual clause conspire to make it unconstitutionally vague. In the first place, the residual clause leaves grave uncertainty about how to estimate the risk posed by a crime. It ties the judicial assessment of risk to a judicially imagined “ordinary case” of a crime, not to real-world facts or statutory elements. How does one go about deciding what kind of conduct the “ordinary case” of a crime involves? “A statistical analysis of the state reporter? A survey? Expert evidence? Google? Gut instinct?” United States v. Mayer, 560 F. 3d 948, 952 (CA9 2009) (Kozinski, C. J., dissenting from denial of rehearing en banc). To take an example, does the ordinary instance of witness tampering involve offering a witness a bribe?
V. Vagueness und Precision

1. Constitutional Limits

At the same time, the residual clause leaves uncertainty about how much risk it takes for a crime to qualify as a violent felony. It is one thing to apply an imprecise “serious potential risk” standard to real-world facts; it is quite another to apply it to a judge-imagined abstraction. By asking whether the crime “otherwise involves conduct that presents a serious potential risk,” moreover, the residual clause forces courts to interpret “serious potential risk” in light of the four enumerated crimes—burglary, arson, extortion, and crimes involving the use of explosives. These offenses are “far from clear in respect to the degree of risk each poses.” Begay, 553 U. S., at 143. Does the ordinary burglar invade an occupied home by night or an unoccupied home by day? Does the typical extortionist threaten his victim in person with the use of force, or does he threaten his victim by mail with the revelation of embarrassing personal information? By combining indeterminacy about how to measure the risk posed by a crime with indeterminacy about how much risk it takes for the crime to qualify as a violent felony, the residual clause produces more unpredictability and arbitrariness than the Due Process Clause tolerates.
V. Vagueness und Precision

2. Proper Use of Vagueness

Art. 14  Ambient limit values for air pollution

The ambient limit values for air pollution must be set so that, in the light of current scientific knowledge and experience, ambient air pollution below these levels:

a. does not endanger people, animals or plants, their biological communities and habitats;

b. does not seriously affect the well-being of the population;

c. does not damage buildings;

d. does not harm soil fertility, vegetation or waters.

Art. 25  Construction of fixed installations

1 New fixed installations may be constructed only if the ambient noise levels emitted from these installations alone do not exceed the planning values in the surrounding area; the planning authority may request a forecast of noise levels.
V. Vagueness und Precision

2. Proper Use of Vagueness

Vagueness …

… may pose a constitutional problem,

… may be replaced by more detailed rules (which usually but not always lead to more predictability),

… must be justified if a more precise rule is available,

… must be thought about in the light who might benefit from it.
VI. Cross References

1. Idea and Benefits

Law A  Import of a rule from law B into law A by a norm in law A  Law B
VI. Cross References

1. Idea and Benefits

Federal Act on the Protection of the Environment (Environmental Protection Act, EPA)
of 7 October 1983 (Status as of 1 January 2018)

Art. 10g Freedom of information in the case of environmental information

1 Any person has the right to inspect environmental information in official documents and information relating to energy regulations that relate to the environment and to request information from the authorities about the content of these documents.

2 In the case of federal authorities, this right is governed by the Freedom of Information Act of 17 December 2004 (FoIA). Article 23 FoIA applies only to documents that contain information under paragraph 1 relating to nuclear installations.

3 The right to inspect also applies in the case of public corporations and private individuals who have been entrusted with enforcement duties but which do not have the power to issue rulings in accordance with Article 5 of the Administrative Procedure Act of 20 December 1968. In these cases, the competent enforcement authority shall issue rulings under Article 15 FoIA.

4 In the case of cantonal authorities, the right is governed by cantonal law. If the cantons have not issued provisions on the access to documents, they shall apply the provisions of this Act and the FoIA mutatis mutandis.
VI. Cross References

2. Caveats

- **Law A**: Import of a rule from law B into law A by a norm in law A
- **Law B**: Import of a rule from law C into law B
- **Law C**: Chain of references may be hard to read
VI. Cross References

2. Caveats

- Import of a rule from law B into law A by a norm in law A

- Does rule from law B apply in the original or in the amended version? (static or dynamic cross reference)
VI. Cross References

2. Caveats

**Art. 39** Implementing provisions and international law agreements

1 The Federal Council enacts the implementing provisions.

1bis In doing so, it may declare internationally harmonised technical regulations and standards to be applicable and:

a. authorise the Federal Office responsible to declare subordinate amendments to these regulations and standards to be applicable;

b. provide that the regulations and standards declared to be applicable are published in a specific manner and that translation into the official languages is dispensed with.\(^82\)
VI. Cross References

2. Caveats

May legislator refer to other legal sources than laws?

Secondary legislation or private standards
VI. Cross References

2. Caveats

Cross references are useful because they

… save words,

… enhance consistency,

but should be critically assessed in the light of …

… possible confusion,

… limits by the principle of legality (possible delegation)
VII. Primary and Secondary Legislation

1. Constitutional Limits
VII. Primary and Secondary Legislation

1. Constitutional Limits

- Constitution
- Law A
- Law B
- Law C
- Law D
- Secondary Legislation
VII. Primary and Secondary Legislation

1. Constitutional Limits

Federal Constitution of the Swiss Confederation

date of 18 April 1999 (Status as of 12 February 2017)

Art. 164 Legislation

1 All significant provisions that establish binding legal rules must be enacted in the form of a federal act. These include in particular fundamental provisions on:

   a. the exercise of political rights;
   b. the restriction of constitutional rights;
   c. the rights and obligations of persons;
   d. those liable to pay tax as well as the subject matter and assessment of taxes and duties;
   e. the duties and services of the Confederation;
   f. the obligations of the Cantons in relation to the implementation and enforcement of federal law;
   g. the organisation and procedure of the federal authorities.

2 Legislative powers may be delegated by federal act unless this is prohibited by the Federal Constitution.
VII. Primary and Secondary Legislation

2. Functions of Secondary Legislation

Functions of secondary legislation are …

… concretizing primary legislation,

… supplementing primary legislation,

… streamlining implementation,

… (possibly) guiding courts,

… establishing transparency.
VII. Primary and Secondary Legislation

3. Best Practices (and Open Questions)

Secondary legislation must be critically assessed in the light of ...

... the principle of legality,

... the power of the government and of administrative authorities that comes with the power to enact secondary legislation,

... Parliamentary oversight,

... publication and consultation procedures,

... drafting quality,

... management of secondary legislation.
VII. Primary and Secondary Legislation

4. Primary and Secondary Legislation as an Integrated Process

- Law
  - Secondary Legislation
    - Admin. Practice
    - Admin. Rules
  - Admin. Rules
    - Admin. Practice
- State Action
- Concretization
VIII. Transitional Provisions

1. Definition

Before a new law is passed, ...

... one must examine whether an existing law may be amended,
and in case of a new law whether it fits into the legal order,
i.e. the scope of the new law is well tailored

... personally,
... in substance,
... geographically,
... temporally.

Errors in scope typically lead to unclear legal situations.
Art. 106   Transitional provisions

1 Nuclear installations that require a general licence in accordance with the provisions of this Act, and which are already in operation, may continue to be operated without the corresponding licence as long as no changes are made that require an amendment of the general licence in accordance with Article 65 paragraph 1.

2 Owners of existing nuclear power plants are required to demonstrate within a period of ten years that arrangements for the management of radioactive waste arising from these plants is assured, if the Federal Council does not already deem this assurance to have been provided. The Federal Council may extend this deadline by five years in justified circumstances.
2. Examples

Federal Act on Forest
(Forest Act, ForA)

of 4 October 1991 (Status as of 1 January 2017)
VIII. Transitional Provisions

2. Examples

Art. 56  Transitional provisions

1 The new law applies to proceedings pending on the commencement of this Act. The competent authority according to the old law shall complete the pending proceedings.

2 Unlimited deforestation authorisations lapse two years after the commencement of this Act. In individual cases, the competent authority may prolong the deadline on application if the conditions for deforestation are fulfilled. The application must be made before the expiry date. The adaptation of rulings to the new law is reserved.

3 Contractors harvesting wood in the forest are exempt up to five years after the commencement of this Act from the duty imposed by Article 21a, whereby they must demonstrate that the workers employed have completed a federally recognised course raising awareness of the dangers of forestry work.87
VIII. Transitional Provisions

3. Evasive Behavior
VIII. Transitional Provisions

3. Evasive Behavior

Federal Constitution of the Swiss Confederation

of 18 April 1999 (Status as of 12 February 2017)

**Art. 75b**

Second homes*

1 No more than 20 per cent of the total stock of residential units and the gross residential floor area in any commune may be used as second homes.

2 The law shall require communes to publish their first home percentage plan and a detailed report on its implementation every year.

9. **Transitional provision to Art. 75b (Second homes)**

1 If the relevant legislation does not come into force within two years of the adoption of Article 75b, the Federal Council shall issue the required implementing provisions on construction, sale and recording in the land register by ordinance.

2 Building permits for second homes granted between 1 January of the year following the adoption of Article 75b and the date on which the implementing provisions come into force shall be null and void.
VIII. Transitional Provisions

4. Summary

Transitional provisions define the temporal scope of an act. Special consideration must be given to …

… existing rights and duties (e.g. licenses),

… necessary time to adapt to new regulation,

… pending proceedings,

… evasive behavior (and the problem of retroactivity)
IX. Practical Questions

Federal Act on Data Protection

Read the Federal Act on Data Protection.

1. Who are the likely addressees of this act?
2. Discuss the aim (goals) of the act.
3. Discuss the legal definitions of the act.
4. Discuss the inner structure of the act.
5. Is article 13 of the act vague? If so why and do you see possibilities to make it more precise?
6. Are there cross references? If so, comment.
7. Do you see room for secondary legislation to this act?
8. Discuss the transitional provisions of the act.
9. What other remarks do you have?
Use “must” not “shall” to impose requirements. “Shall” is ambiguous, and rarely occurs in everyday conversation. The legal community is moving to a strong preference for “must” as the clearest way to express a requirement or obligation.

First, lawyers regularly misuse it to mean something other than “has a duty to.” It has become so corrupted by misuse that it has no firm meaning. Second—and related to the first—it breeds litigation. There are 76 pages in “Words and Phrases” (a legal reference) that summarize hundreds of cases interpreting “shall.” Third, nobody uses “shall” in common speech. It’s one more example of unnecessary lawyer talk. Nobody says, “You shall finish the project in a week.”

https://www.plainlanguage.gov/guidelines/conversational/shall-and-must/
X. Discussion

"Shall"

Use “must” not “shall” to impose requirements. “Shall” is ambiguous, and rarely occurs in everyday conversation. The legal community is moving to a strong preference for “must” as the clearest way to express a requirement or obligation.

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https://www.plainlanguage.gov/guidelines/conversational/shall-and-must/
X. Discussion

RIA (Ittai Bar Siman tov)

On the level of primary legislation by the Knesset, impact assessments are indeed very underdeveloped. In theory, in addition to financial impact that you mentioned, there should also be an obligation to do an assessment of the impact on children's rights and women rights. But in practice, it is not really done properly.

הנושא של הערכות השפעה זוכה בהתייחסות מצומצמת וスポרדית בלבד בדיני החקיקה
הכימיים בישראל, וומרל על השפעות תקציביות 252, על השפעות מדדית 253ולעקרות על
dכויית ילדי 254. עוד גמ הדרישה להערבות השפעה במקנים המאוצמטים ולאו ירא הגובב
במנגנון מספק, ורא vinden של הוראות אחרים אלה לויעיון קרובות פורמלי בלבד והולק
ביותר 255. גם מקוד נקרא כי יזחיק על salir ש"אינו בישראל הסדרהehler אויחה של
הבחת המחווק לבחור את השפעת החקיקה על דכויית וול אינונרסים שוויים 256, "וכי הליים
לעקרת השפעות איום חלק אינטגרלי מתליר החקיקה בישראל בעת הנוכחת."
The most important development (and only case to date in which the Court actually nullified a piece of legislation due to defects in the legislative process) is HCJ 10042/16 Quintinsky v. Knesset (2017). An English translation of the summary of the decision is available here:

https://versa.cardozo.yu.edu/opinions/quintinsky-v-knesset-summary

The case represents something of a development of the rule established in the Poultry Growers case. The participation principle established there was restated in a new and more detailed manner. The decision also moved the boundary and somewhat widened the scope of judicial review in regard to an infringement of the right to substantive participation.
X. Discussion

Experimental Clauses (Ittai Bar Siman Tov)

There is some experimental legislation in Israel, and few laws have, in addition to the sunset clause, a clause about data collection and reporting requirements, and very few also create a mechanism or a study for the law's post legislation evaluation. However, it is relatively underdeveloped.
X. Reflection Paper

Questions (choose one)

1. Choose an Israeli law and discuss the purpose article. Does it cover all goals you associate with this law? Why not? Are goals in contradiction with each other? What are the practical consequences of the goals? Etc.

2. Choose an article from Israeli legislation? Is it vague? Does it have to be vague? If not, could the norm it be improved? If yes, what is the purpose of vagueness? Etc.

OR

3. Choose any other topic from the course and treat it in a similar manner as questions 1 and 2, i.e. discuss it on the basis of an Israeli legal text.

Translate the Israeli legal text (google or similar) if there is no English translation available. The translation does not count towards the word count.

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