Ahmednagar Jilha Maratha Vidya Prasarak Samaj's

NEW LAW COLLEGE, AHMEDNAGAR

LEGAL LANGUAGE AND LEGAL REASONING

(Subject Code - BA0301)

STUDY MATERIAL

FOR

BA.LL.B II SEM – III (Pattern 2017)

By

Prof. Rameshwar B. Dusunge

MA.LL.B. DLL. and L.W.

Assistant Professor

New Law College, Ahmednagar

AHMEDNAGAR JILHA MARATHA VIDYA PRASARAK SAMAJ'S

NEW LAW COLLEGE, AHMEDNAGAR

B.A.LL.B II (BA0301)

LEGAL LANGUAGE AND LEGAL REASONING (80 MARKS)

SEM-I

Objectives of the Course: This paper is designed to give the students more exposure to the nature of legal language and the issues related to it in drafting legislations and legal documents. It intends to acquaint the students with advocacy skills so much so to bridge the gap between theoretical and practical knowledge and to strengthen and enhance their critical thinking. It also introduces the students to logical reasoning and its use in law to set up good arguments.

SYLLABUS/INDEX

		j) Use of Symbols and Abbreviations	
II		**Use of Language in Drafting**	**23**
	1.	Use of Legal Language and its Significance in Drafts (Sale Deed, Gift Deed, Release Deed, General Power of Attorney and Will)	
	2.	Use of Legal Language in Drafting in Legal Notices (Notice to Tenant on behalf of Landlord and vice versa and Notice to Husband on behalf of Wife and vice versa)	
IV		**Advocacy Skills**	**48**
	1.	Meaning of Advocacy	
	2.	Advocacy as an Art	
	3.	Qualities of Lawyers (Good voice, command of words, confidence, practical wisdom, etc.)	
	4.	Use of Rhetoric- Figures of Speech (Euphemism, Hyperbole, Irony, Metaphor, Paradox, Simile, Synecdoche and Understatement)	
	5.	Etiquettes and Manners for Law Professionals	
V		**Legal Reasoning and Skills of Arguments**	**69**
	1.	Logic and its Scope a) Meaning of Logic and its Nature b) Some Major Sources of Knowledge- a priori, evidence, memory, observation, perception, reasoning and testimony c) Structure of Argument- Statements/Premises and Conclusion d) Methods of Reasoning- Deductive, Inductive and Reasoning by analogy e) Fact and Opinion f) Truth and Validity	
	2.	Syllogism a) Meaning of Syllogism b) Rules of Syllogism c) Types of Syllogism-Categorical, Conditional and Disjunctive	
	3.	Fallacy	

		a) Meaning and Reasons of Fallacy b) Types of Fallacies-Faulty Cause, Sweeping Generalization, Faulty Analogy, Anecdotal Fallacy, Bifurcation (False Dilemma), Equivocation, Tautology, Appeal to Popular Opinion and Association Fallacy	
	4.	Application of Reasoning to Law - Facts of a Case and provisions /Case Laws(Refer to DahyabhaiChhaganbhaiThakker v. State of Gujarat, AIR 1964 SC 1563 for legal reasoning	

1. LEGAL LANGUAGE AND ITS NATURE

1.	Law and Language
2.	Meaning of Legal Language
3.	Scope and Domain of Legal Language

Relation of law and language:

Introduction:

The use of language is crucial to any legal system, not only in the same way that it is crucial to politics in general, but also in two special respects. Lawmakers characteristically use language to make law, and law must provide for the authoritative resolution of disputes over the effects of that use of language. Political philosophers are not generally preoccupied with questions in the philosophy of language. But legal philosophers are political philosophers with a specialization that gives language (and philosophy of language) a special importance.

Philosophy of law can gain from a good philosophical account of the meaning and use of language, and from a good philosophical account of the institutionalized resolution of disputes over language. Philosophy of language can gain from studying the stress-testing of language in legal regulation and dispute resolution. And philosophers of language can gain from he reminder that their task is not only to account for what people share in virtue of the mastery of a language; they also need to account for the possibility of disagreements over the meaning and use of language, and for the possibility that there might be good reason for resolving those disagreements in one way rather than another.

In addition to their interest in the use of language in law. Philosophers of law have developed a second, interrelated interest in using insights from the philosophy of language to address problems of the nature of law. This article outlines some problems in each of these two areas, after a brief historical note on the linguistic preoccupations of legal philosophers.

The only tool a lawyer has is words. Doctors, engineers, architects and other professions can make use of the latest technical developments to help them in their work. But lawyers are basically left with the same tools they had when the profession began - words.

Legal English is different from General English or business English, and a good knowledge of both general and business English is not sufficient to

be able to function effectively in the international legal community. For example, you may know the word consideration from general English (=careful thought), but could youliferits Legal English meaning (=payment) from your knowledge of general English? Legal English has many words with every different meanings from their general English definitions, and it is important not to confuse the two. These words can often be understood from context, but it is important to realise at the start of your studies that you will encounter many words with which you will be familiar but which are used differently by lawyers.

As with other professions. Legal English includes much technical vocabulary. These are words that only lawyers use, such as tort, easement and injunction. These must be learned and used correctly. A simple bilingual dictionary is not enough to learn such vocabulary, and the TransLegal World Law Dictionary has been designed specifically to meet the needs of non-native speakers of English learning and practising tile law.

Many problem can arise from misunderstanding cross-discipline technical vocabulary. These are words such as consideration that have one meaning in general English and another meaning in Legal English, as outlined above. Another common example is the term negotiate. In general English negotiate means to try to reach an agreement by discussing its terms. In Legal English, negotiate can also be used to transfer the legal ownership of something,

Another possible area of difficulty is the use of semi-technical vocabulary. These words are examples of formal (general) English that are used extensively by lawyers, sometimes with slight changes in spelling or nuance. One example is the term therefore, which means for that reason. This meaning and spelling is also used in Legal English. However, another common term is therefor, which has a slightly different spelling and means for that or for it.

As the only tools available to lawyers are words, one could liken the nuances and shades of legal English to the sharpness of a tool. A lawyer working in English without a good understanding o these nuances is like a surgeon working with a dull scalpel. Not good.

Other general attributes of legal English include.

- very long sentences
- archaic expressions

- providing for all possible contingencies
- a greater tendency to use formulaic expressions

To a certain extent, the gap between Legal English and general English is narrowing as lawyers are encouraged to use **plain English** where possible. However, the continued use of old statutes and precedents necessitates an understanding of archaic language still in relatively common use by lawyers. The use of **legalese**, the formal and technical language of legal documents that is often hard to understand, is discouraged in vocational legal training and lawyers are now taught to use naturalistic language where possible. However, for better or for worse, many lawyers still insist on the traditional use of legal **jargon.** The law has always tended to be a **conservative** profession, and this is reflected in its use of language.

Meaning of Legal Language

Introduction:

Words are the essential tools of the law. In the study of law, language has great importance; cases turn on the meaning that judges ascribe to words, and lawyers must use the right words to effectuate the wishes of their clients. It has been said that you will be learning a new language when you study law, but if s actually a bit more complicated. There are at least four was in which you encounter the vocabulary of law.

One of the great paradoxes about the legal profession is that lawyers are, on the one hand, among the most eloquent users of the English language while, on the other, they are perhaps its most notorious abusers

Meaning of Legal Language: Legal language means a language used by the persons connected to the legal profession. The language used by the lawyer, jurist, and the legislative drafts man in their professional capacities. Law being a technical subject speaks through its own register. Legal language has varies like local legal language and English.

As defined by webstar in his lexicon, term is derived from the Latin word 'Lingua' meaning a system of communication between humans through written of vocal symbols.It is a speech peculiar to an ethnic, national or criminal group.It is the articulate or inarticulate expression of thoughts and feelings by living creatures it is the system of sounds and words used by human being to express themselves.

In India legal language means a language other than in English or independent of English a legal language is expected to be developed through the medium of regional language or Hindi.

There are different **"Registers"**' for different sections of people or technical experts like 'Scientific Register' for the language old Scientists, Technological Register" for the language of technologists, 'Journalist Register for the language of the Journalist Literary Register' for the language of Literary persons and 'Legal Register1 for the language of law persons - Lawyers. Judges, Draftsmen, Jurists etc. There are four factors which establish 'Legal Register'

i. The **Field Dimension** or subject-matter dimension of legal register provides for its separate terminology
ii. **Mode dimension** of legal register requires highly formalized expressions in the form of enactments, application, forms and judgments.
iii. Under **Role dimension** of the legal register deals with machine translation and official use are included.
iv. The **Formality dimension** of the legal register deals with legislators, judges and Lawyers, Lawyers and Litigants, Judges and Litigants, teachers and students of law.

Scope and Domain of Legal Language

Introduction:

Legal language comes across and influences different segments of the society. Some of them may be law knowing persons and others may not. The communication between the law-giver and men of law is one sa communication. It can be found in the shape of statute.

The language of the statute is most technical and legislators have very little to do with it but drafter take care that it is communicative of, the law-givers intension. The communication between the judge and the council is the to-way, as both are well-versed in law. So is the case with formal communication between the two opposed councils while addressing the judge.

This short communication involves judgments and briefs. In the third instance there is informal consultation that takes place either between two or more judges, chamber or between two or more council in councils office or bar room or among men of law in jurisprudential decisions. Lastly, there is the consultation between the ordinary citizen and the counsel the former may be ignorant of law and therefore the job of the latter is more difficult as he has to give legal shape and terminology to the ordinary language of the client.

In Ashok K.Kelkar's language legal communication may be summarized to five types of situational contexts:

1. The law-givers to the judge and the counsel statues, preamble to statutes. the judge to the counsel, the counsel to the Judge-judgment briefs, court - room exchange, preamble-like portion of judgment and briefs
2. Consultation among judges, among counsels, among me of law. The judge to jury, the counsel to client the client to counsel- the judge's brief, consultations.
3. (v)Between ordinary citizens-contracts, testaments, buy-law, notice and the like

Importance of language in law:

Legal language is different from everyday language. The differences are most obvious at the semantic level of all the modes of persuasion furnished by the spoken work there are three kinds-

i. The first depends upon the personal character of the speaker.
ii. The second on putting the audience into a certain frame of mind, and
iii. The third on the proof or apparent proof provided by the speech itself .and this can be achieved by
    a. reasoning logically
    b. understanding human character and goodness in their various forms, and
    c. Understanding the liberty of the mind. The object of every sincere speech after all, is not to arouse the passions or flatter the senses, but to convince the hearers of the truth.

As a lawyer one must have a distinctive vocabulary which uses the words from outsidethe general language and words which are part of the general language, but which haveradically different meaning in legal and general usage.

The significant of language for law lies infect that it is not merely a medium of communication but also a medium of law or furthermore or is not merely only medium, is the law.

2. PROBLEMS OF LEGALLANGUAGE AND REMEDIES

1.	Problems of Legal Language
2.	Problems of Legal Language in Drafting Statutes and Writing Judgments
3.	Principles of Legal Writing a) Simplicity, Clarity and Precision b) Plain English and Plain Language Vocabulary c) Eliminating the Jargon "Legalese" d) Avoid Repetitions e) Slash Unnecessary Words f) Breaking up Long and Complex Sentences g) Connecting Sentences h] Linking Paragraphs i) Use of Passive Voice j) Use of Symbols and Abbreviations

Problems of legal Language:

1. **Uncertainty and ambiguity:**
   There are many words used in legal language which have no definite meaning and they produce problems. There reader should guess the meaning referring to the context in which a particular word or phrase is used. E.g. The word 'right means 'Claim' as well as 'exactness', 'just'
2. **Inherent incompleteness of Human Language:**
   Human language is incomplete and imperfect. Except in mathematics, it is difficult to frame exhaustive definitions of words, they must be constructed with reference to the subject-matter to which they are applied. Even in mathematics, words do not have exactitude beyond doubt; they are sharply defined; but this does not mean that they are easily applied to the world of experience or that they are immune form the general necessity of being constructed with reference to the subject-matter

3. **Change in meaning of the word:**

Many words change their meaning in the course of time,

a. Some become restricted
b. Some widened
c. Some transferred by metaphor, the original meaning either remaining or disappearing.

4. Emotive elements in words:

Some words carry an emotive element. It lends illegitimate weight to a statement. A word is said to perform an emotive function, when it either expresses and affective of volitional attitude or arouses such an attitude in others. Thus an emotive word can either be an expression or an excitant of felling or desire.

Sometimes, an emotive statement is disguised as a referential one. E.g.'justice requires all moral wrongdoing to be punished' It shows mysterious natural nexes between anti-social action and suffering.

5. Pemimbral or fringe meaning of certain words:

Some words are not equivocal as to have two or more meaning but they are still vague in their meaning. E.g. 'about', 'near', 'more or less'. When such expressions are used in legal document, they cause considerable trouble.

6. Playing humpty-dumpty with words:

Lawyers may play humpty-dumpty with words. They can give meaning to a word quite form its common sense. The significance of all words is perfectly arbitrary and that every man has inviolable liberty to make words stand for what ideas he pleases.

Since, an important function of language is to communicate thought, it can serve this function well if there is a general measure of agreement upon the meaning of words.

7. Rhetoric:

It is synonymous with legal language. The expression rhetoric has both positive and derogatory connotation. As a noun, it is the art of speaking and writing well elegantly and effectively, especially in order to persuade or influence other, it relates to the theory and practice of using language effectively. Rhetoric questions are put in order to produce an effect rather then to gain information, the answer usually being implied in the question.

In derogatory sense, rhetoric indicates the language which is full of unnecessarily long, formal or literary words and phrases, and which is often insincere and meaningless rhetorical style communicates the idea of over-elaboration or insincerity in style.

8. Jargons:

Dictionary meaning of the term 'Jargon' is the specialised vocabulary or particular trade, profession, group or activity. Some would say that to be a good lawyer is necessarily to be Jargon monger that word shuffling is the nature of business. But it is also been used in a derogatory sense. In derogatory sense, it connotes the language which uses specialised type of vocabulary in a pretentiousor meaningless way. It communicates confusing or meaningless talk.

9. Verbosity:

Sometimes, two or more words are used from different angle to communicate a single idea. Adjective verbose indicates using too many words; boring or irritatingly long winded. Noun verbiage, means the use of language that is wordy or needlessly complicated and often meaningless. Sometimes, many irritating words are used in some documents needlessly. Sometimes, obsolete words are used which are no more in common use. e.g. Said, the aforesaid, whereas, hereinbefore, hereinafter etc.

10.Legalism or Lawyerism:

Legalism is something different from legality. Legality indicates strict adherence to law, prescription, or doctrine; the quality of being legal Legalism on the other hand means:

a. Formalism carried almost to the point of meaninglessness; a disposition to exalt the importance of law or for mutated rule in any department of action.
b. A mode of expression characteristic of Lawyer, it is nearer to legalistic i.e. formalistic. It is hoped and advised that lawyers and legislators should avoid legalism and legalistic expressions.

Latinism means use of difficult Latin words and phrases not easily comprehensible.

11.Formalism

Formalism means excessive adherence to prescribed forms; use of forms without significance. It differs from the expression 'formality' which means conformity to rules; propriety; precision of manner. Use of formal words is a defect in legal language. Formal words constitute an elevated level of diction, and even synonyms that exist on different levels.

The language of the law is perhaps too heavy with formal words expressing resort to unnatural pomposities.

Introduction:

Drafting is a specific type of legal writing dealing with instruments oflegal documents that are to be construed by others. Drafting is a preliminary stage of writing and a good draft results in good writing. The style of drafting is considerably different from that of the other legal writing as in judicial opinions and legal commentary. Thus, legal literarywriting must be distinguished from the drafting of legal documents. In statutes, conveyances, contracts, etc. certainty is paramount aim of the draftsman rather than attractive legal style.

I. The problems of Legal Language in Drafting Statutes arise due to following reasons:

The draftsman makes an effort to communicate the intention of the legislation through the language to all the sections - Litigant, Counsel and Judge, involved in the legal profession.

1. Lack of clarity of though (Impressing);

A draftsman of the parliamentary draft begin his work with a number of problems. He has to work within the orbit of divergent standards like legal problems. He has to work within the orbit of divergent standards like legal effectiveness, acceptability, brevity, ability and conformity with law. It takes much time and requires enough thinking to achieve precision and clarity in thoughts. Lack of clarity in thoughts leads to disorganized composition and language becomes confused and inconsistent.

a. Ambiguity in instructions orlack of uniformity in thoughts of different persons:

Drafting of a statute starts with the instructions of a government official instructing the draftsman. The ministers rarely sees the instructions sent by the officials to the draftsman. But there is a certain conflict of interest between the draftsman and the department as 'former seeks to confine the Bill strictly to matters requiring an alternation of the law. The department is conscious that theMinister would like to make a Parliamentary splash; it also knows that administration is sometimes helped by being able to refer an Act of Parliament so it wants to put as much as possible into the bill. When a Minister wants a clause to look as attractive politically as possible and is impatient of the detail needed for precision; or when the department wants its administrative powers drawn widely, or even obscurity, so as to avoid risk of legal challenge, an attitude which hardly pleases a self-respecting draftsman.

b. Ambiguity arising from hasty legislation:

The work of drafting bills is carried out under intense pressure of time. A large number of statutes are hurriedly under compulsion of politico-economic pressures. Due to haste, there is no opportunity for adequate discussion even on controversial points the statute is drafted in haste in an atmosphere of the clash of interest of different groups.

c. Lack of reconciliation between the conflicting interests:

Some statutes are drafted in a manner which do not reconcile the issues betweentwo conflicting parties. For e.g.in some States, there are disputes between Tenant and Landlords which cannot be resolved because of unclear law. These issues should be imagined while drafting such laws.

d. III – drafting.

Draftsman, while describing some matter at different places in the same Act, does not use the similar language, the ambiguity creeps into the Act. Legislations is for the people and must, therefore be plain enough.Judges, looking at the statutes are forced to play a linguistic game guessing the general legislative purpose and straining at semantics. Legislative draftsmen and legislators must not confuse each other but start talking to their real audience- the people by writing law in unmistakable and simple language.

e. **Inapt drafting making reconciliation between the old and the new law on a point:**

When a statute is drafted to replace old laws by new laws, use of loose language causes much of difficulty. It is expected of the draftsman that he should not create doubtful situations.

f. Disagreement on acceptability:

Language of draft may invite reactions and criticism if it is thought provoking. It may excite opposition. e.g. Use of'tried his best' instead of'used his best endeavours'

g. Requirement of legal compatibility.

Sometimes, bills may be drafted in a language which may not be compatible withthe existing laws. Similarity of language on similar matter brings clarity. There are many problems before the draftsman:

- He does not have the benefit of precedents on drafting.
- A draftsman is discouraged by the knowledge that if he carries out the search, it will throw up a variety of examples, not one of which may appear any better than others.
- Draftsman vary in their willingness to spend time hunting for models in earlier legislation. Clarity in language demands that the draftsman

should indicate in his bill what its effect is on other statutory provisions - by way of repeal an amendment.

2. **Drafting of definitions:**

Itis common to find in a statute 'Definition' of certain words and expressions in the body of the statutes. The object of such a definition is to avoid the necessity of frequent repetitions in describing all the subject-matter of which the word of expression so defined is intended to apply.

Statutes define terms and give narrower or more extensive meaning than the dictionary or the layman would give to the particular word or phrase. Although the definition is aimed at bringing clarity and brevity, but due to the use of the liberal and expansionist words or lack of the drafting of mandatory rules, many problems arise. Rules should be straightway commands, not definitions. The mainproblem of language is that, instead of making the definition simple, it makes them complicated.

3. **Inherent ambiguity of words:**

a. **Use of expressions 'shall' and 'may'**

'Shall' is the most powerful word in the draftsman's inventory. Therefore it must be squandered by misuse. The proper use of 'Shall' is to give an order and it is a word of command and mandatories.

The use of the expression 'may' is also not relieved of uncertainty. Normally it lacks command and is merely permissible buy where 'may' communicates absolute power, it is meant as 'shall'. The biggest problem of the Draftsman is how to limit the use of 'Shall' for command and 'May' for permissiveness for the sake of certainty and clarity.

b. **Use of'and'and'or' :**

Ordinarily 'and' is conjunctive and 'or' disjunctive. Much uncertainty and confusion is caused due to the expression 'and' and 'or' in the statutes. Draftsman should avoid use of'and'and 'or' as 'And' can be both conjunctive and disjunctive therefore and/or is unneeded.

4. **Misplaced duty:**

Statutes are bossy; they give orders. Draftsman regularly forget to direct orders to someone. Inactiveandimpersonalformcreatesdoubtaboutthe legal consequences.

e.g. The draftsman uses the expression 'Notice shall be issued' instead of 'A shall issue the notice', a doubt arises as to who shall issue the notice.

5. **Use of equivocal words,**

Sometimes words selected are so ambiguous and equivocal that they create problem.

6. Jargons:

Many problems come out of jargon mongering. It better to avoid certain words. For E.g. USE of 'Such' is to be avoided and the', 'this', these' is to be preferred. The use of 'such' is unnecessary and represents bad bill drafting. Jargon is a special kind of language. It has several Meanings:

a. Strange, confused, unintelligent language
b. Language used by a particular group like lawyers, etc. c. Obscure language used to confuse.
c. Obscure Language used to confuse.

7. Use of doublets andTriplets of legal idioms:

Amplification of synonym has been a part of the language of law. It was most common in English Renaissance. French and Latin pair for words were used as approximation of Anglo-Saxon words. Such words still survive in legal language.

E.g. Acknowledge and confess (old English and old French)
Act and deed [Latin and old English)
Goods and chattels (old English and old French)

Some writers view that purpose of this mannerism of doubles as 'rhetorical' or 'oratorical' rather than etymological However, it has been viewed that doublets had significance. The purpose of doubling was dual, 'to give rhetorical weight and balance to the phrase and to maximize the understanding of readers or listeners.

8. Style

In old days much of the legal language problems arose due to the use of style of the drafting. The craft of drafting was victim of prolixity, redundancy and intricacy. Sometimes, the style of drafting causes serious problems. When the draftsmen intend to reconcile between the old rule and new rule on the point. They use 'notwithstanding the provision of and subject to the provisions of. They also use the phrase 'other law to the contrary notwithstanding. The draftsman knows or thinks contrary law exists, he should find it and repeal or amend it.

9. Cliche and Gobbledygook.

Using cliché's gives the impression that the draftsman is not thinking but is merely using pre-digested though and language. Gobbledegook is a style of using big words when smaller words do as will. It is adopted for two reasons:

a. to hide the draftsman's real ignorance about the subject
b. to create a false impression of importance.

The use of long words, long sentences, multisyllabic Jargon and verbal distortions, badly affect the legal drafting.

II. The problems of Legal Language in Drafting Judgments arise due to following reasons:

Judgement is the final determination of the court communicated through formal declaration to the parties and the whole world. Judgement is delivered in the open court. **It has two-fold significance:**

a. it determines the rights and duties of the parties to dispute and
b. it lays down the law for the future on the point.

Judgement has multidimensional significance. Judges and advocates are its essential part Subordinate Courts are bound by judgement of the Superior Courts.

Judgments have the qualities of decorativeness, determinativeness and adjudicativeness. Therefore they should be intelligible to all. Language of the subordinate courts is the regional language. The language of the High Courts and Supreme Court is 'English'.

Two precautions have to be taken while delivering the judgments:

There are a number of problems relating to the language of the Judgement due to which communication gap between the lawyers, judges and the common people persists. They are briefly discussed below:

1. **Lock ofcommunicability due to judgement not being delivered in indigenous :**

   Decisions/Judgement in indigenous language would be easily understandable due to the natural language affinity. But in India, even after elapse of five decades of the functioning Constitution, it has not been possible for the Judges of superior courts to deliver judgments in indigenous language. As a result of Judgments being delivered in

'English' which is still a foreign language for majority of Indians, they are not understood or comprehended.

2. Use of literary language:

Some law experts think that a good judgment writing must be vigorous, racy and pungent. Judgment should be pronounced in a readable language. Some very good judges aspire for literary excellence and pass readable literature of the highest order. The language of the judgment should not be mystifying. Too must literariness and use of old English may become less understandable.

3. **Use of Lexical gymnastics:**
   Judgments are delivered not only for lawyers and Judges but also for litigants. Law is a literature in a much different way. Sometimes, the language is to pompous to render the clarity of expression.

4. **Use of Rhetoric, Jargon and Verbosity:**
   Most of the times, judgment writing is characterised by verbosity and rhetoric.

5. **Use oftechnical and old English:**
   Technical terms are of art. But such terms should be used only when they are well-known in the profession.
6. **Careless use ofwords causing languageproblem in judgement writing:**
   Judges have to use words carefully because sometimes minor manipulation here and there can change the meaning and scope of entire sentence. At most care need to be taken while drafting the judgments.

7. **Over-elaboration:**

The requirement of Anglo-Saxon Jurisprudence compels fudge to confine his attention to the issue arising before him. Every judgment does not provide opportunity for laying down the laws for future. Transgression of this rule may result in confusion and embarrassment.

Solutions to Language problem in writing of judgement:

1. Using simple and intelligent language.
2. Judge should make his meaning clear and communicative.
3. Strictures and criticism of lower courts beavoided.

Q.3 Explain the principles of Legal Writing with respect to important points?

Ans.3 The principles of Legal Writing are as described below:

a) Simplicity, Clarity and Precision:

Clarity: Writing of all lands should be as easy to understand as possible. The key elements of clarity are;

- Clear thinking. Clarity of writing usually follows clarity of thought.
- Saying what Clarity of writing usually follows clarity of thought.
- Saying it in such a way that the people you are writing for will understand it-consider the needs of the reader.
- Keepitasshortaspossible.

Precision

Objective of writing set the language of the document. When you are writing a formal letter, response to a letter, business mail then your language could be a common English. But when you know that writing a latter could hamper your legal rights then the wordings should be carefully chosen.

First see, what it the objective? Does the objective is to reply a complaint where customer is annoyed by default? No, the objective is to save the actually handle an annoyed customer.

b) Plain English and Plain Language Vocabulary:

Before to begin with legal English, we need to understand the difference between Legal English and plain English. Plain or general English writing is used for communicating thoughts, observation, stories, description etc. but legal writing is slightly different: Legal writing defines the rights and liabilities. It is defines the statutory position, legal obligation, legal provisions, statue, factual description etc. Legal writing is intended for interpretation. Interpretation by the court will effect overall result that's why legal writing should be in such manner that no other interpretation can be taken out of a sentences other than the intended by the writer.

c) Eliminating the largon "Legalese":

Legal Jargons and Latin. Legal jargons are the word which only a legal professional can understand. It is often seen that legal professional feel pride using legal jargons and Latin. Words like 'thereon"therewith"whereas"hereinafter' are not commonly used in general English but these words are heavily used by legal professionals. We have

described these words in separate chapter in this book, it is commonly known asLegalese.

It can be acceptable when you are writing for consideration of court of legal fraternity who are accustomed to read and understand. But it may scared a lay man. Specially, Latin is very difficult to pronounce and even more difficult to understand.

d) Avoid Repetitions:

Writers often avoid using the words repetitively and prefer using variation of samewords at different places. However, this use of variation or avoiding the use of same words at different places can be very harmful and may render the meaning of the draft turn on its head or leave the reader confused about what the writer is trying to say. For e.g. synonyms are used in varied context at many places in English language and reader might consider the meaning of the synonym in a context different than the one in which used by the writer.

e) Slash Unnecessary Words:

Edit the document five time at least. Don't hesitate to edit once more. Rule out every possibility of mistakes in grammar, spellings, commas, parenthesis, chronology etc. Every time you will find scope of improvement in the sentence construction, paragraph length and even sequence. Legal English is all about the expression by the parties. The expression largely depends of choice of word. Be careful in choice of word.

The clutter of words is a bunch of words used together instead of a single or a short word with same meaning For e.g. use of "a great number of instead of "more", "absolute guarantee" instead of guarantee, "at 12 noon" instead of "noon".

Why we should use "cease and desist" when we can instead use "stop". Both the words used in the given phrases mean the same thing but it is believed by using multiple words for one single word, preciseness is being achieved. However, the results used by use of Clutter of words is sometimes other way around and instead of preciseness, things are made complicated and unnecessarily lengthy.

As a general rule and leaving apart exceptions, one must avoid use of synonyms and multiple words in place of single word. The basic idea to avoid clutter of words is to be clear and simple.

f) Breaking up Long and Complex Sentences:

Short sentences gives space to the reader to have pause and understand what is written. A paragraph containing 3 to5 short sentence in a sequence then it is enough. The new paragraph should be in line with the last paragraph. It should have some linkage with the previously told facts. Continuity is important

'Vigorous writing is concise. A sentence should contain no unnecessary words, a paragraph no unnecessary sentences, for the same reason that a drawing should have no unnecessary lines and a machine no unnecessary parts. This requires not that the writer make all his sentences short, or that he avoid all detail and treat his subjects only in outline, but that every word tell.

The word "concise" often takes colour from brevity or being short. It is not brevity, but if s the context in which the document is being written and how efficiently it conveys the meaning to the intended audience.

For e.g. judge in a legal matter may have a limited time for reading written submission of the counsel and understanding the matter and extracting required information for delivering the judgement. In a matter covered by an earlier judgement, he may be more interested to know straightaway reference to the earlier decide case law and throwing the entire legal history before him would only make the conciseness of the document go awry. However, a complex matter or idea may require long and detailed writing.

g) <u>Connecting Sentences:</u>

Use words economically to form your sentences. This does not necessarily mean that every sentence should be short (which might create a displeasing staccato effect) but that all unnecessary words should be removed: this will make your writing much more vigorous.

In particular, pay attention to phrases that introduce new pieces of information or argument these can often be reduced to single words. Here are some examples:

commonly used phrase	single word equivalent
be a significant factor in	affect, influence
be in position to	can, may
be inclined to the view that	think (that)
by dint of	because
give rise to	cause
have a detrimental effect upon	harm
have a tendency to	tend
have and effect upon	affect
have the effect of	(in most contexts) cause
having regard to	concerning

impact upon	affect
in spite of the fact that	despite, although
in the interests of (e.g. saving time)	to (e.g. save time)
in view of	because
it is arguable that	perhaps
make contact with	contact
meet with	meet
notwithstanding the fact that	despite, although
the fact that	delete phrase- replacement word usually unnecessary
with regard to the question of	concerning , regarding

Connectives are used in English Language for smooth transition from one sentence to another and from one topic to another. Use of connectives is important to showcase the reader that two things are connected and write-up coming up is an extension of the previous one. Famous English Writer Bryan Garner provided following examples of connectives:

When adding a point: also, and, inaddition, besides...

Whengiving an example:for instance, forexample,foronething.

Whenrestating: in other words,thatis,inshort,putdifferently,again...

Whenintroducing a cause:because, since, when.

Whenintroducingaresult: so,asa result, thus,therefore...

Whencontrasting: but,however,on theotherhand, stillnevertheless...

When conceding or qualifying: granted, of course, to be sure, admittedly... **When pressing a point:** infact, indeed, of course, moreover.

When explaining a sentence: that is, then, earlier, previously...

When summing up: tosummarize, to sum up, to conclude, in short...

When sequencing ideas: First... Second, Third...F

h)<u>Linking Paragraphs:</u>

Paragraphs should not be defined by length. They are best treated as units of thought In other words, each paragraph should deal with a single thought or topic. Change paragraphs when shifting to a new thought or topic.

Paragraphs should start with the main idea, and then deal with subordinate matters. The writing should move logically from one idea to the next. It should not dance about randomly between different ideas.

i) Use of Passive Voice:

Use of Active Voice makes the meaning of the sentence clear without making the sentence longer. The sentence remains a crispy and short without compromising anything on the meaning of the sentence. For e.g.

a) Useof PassiveVoice: Thecasewasargued bytheplaintiff himself. Use of Active Voice: The plaintiff argued the case
b) Use of Passive Voice: Income Tax Return was filed by X. Use of Active Voice: X filed the Income Tax Return.
c) UseofPassiveVoice: It must be done by you. Use of Active Voice: You must do it.

The writer should use positive voice rather than the negative voice. Use of positive voice makes the reader know what is rather than what is not. Some of the examples are use of words like writer should use 'dishonest' instead of 'not honest'; 'trivial' for 'not important'; 'forgot' rather than 'did not remember.'

Use of double negatives should be avoided in legal writing. Use of double negatives baffles the reader about what the writer is trying to communicate. Instead of using the double negatives, positive word can be used by the writer. For e.g. use of words 'common' instead of 'not uncommon', 'significant' instead of 'not insignificant, use 'capable' instead of'not incapable' etc. ,

j)Use of Symbols and Abbreviations:

Legal abbreviations are short-hand notations that represent larger legal terms and law terms. An example of what is a legal abbreviation is P. for the plaintiff in a case or D. for defendant. These are examples of what are legal abbreviations. Another example of a legal abbreviation is off' d. for affirmed or JNOV for a judgment notwithstanding a verdict. The idea is to use a legal abbreviation to save you time as you review cases, take notes, etc. Mastering legal abbreviations will help to increase your efficiency.

Some of the commonly legal abbreviations are as below:

3. USE OF LANGUAGE IN DRAFTING

1.	Use of Legal Language and its Significance in Drafts (Sale Deed, Gift Deed, Release Deed, General Power of Attorney and Will)
2.	Use of Legal Language in Drafting in Legal Notices (Notice to Tenant on behalf of Landlord and vice versa and Notice to Husband on behalf of Wife and vice versa)

Introduction

There are several occasions when a person or an entity needs to take a legal action against another person or an entity. The several occasions can be consumer complaint, property dispute, check bounce, divorce, eviction and many more. However, it is important for you to inform the other person that you are going to initiate a legal action against them. That is the reason, you send a legal notice to a person or an entity.

What is a Legal Notice?

A Legal notice is a formal written document sent by a person or an entity with respect to some grievance. It is sent as a warning to the receiver that the one sending the notice have certain grievances which are not properly taken care of by the receiver, although the receiver has given enough opportunity to the receiver to resolve the problem. It is like a final warning to the receiver that the sender is all prepared to initiate a legal action and it is the final opportunity for the receiver to resolve the issue in hand properly.

Importance of filing a Legal Notice

Certain situations may arise where you get confused about how to initiate legal action in order to resolve your matter. The filing of a legal notice gives a new beginning to your journey of litigation. Therefore it has various aspects in which it is important:

- By sending legal notice it can give a clear intention on the part of the sender to file a lawsuit for the purpose of resolving the issue to which the other party might respond immediately to save oneself from court proceedings.
- A person can easily describe his grievance in a legal notice with the help of an Advocate.

- Serving of legal notice gives an opportunity to the receiver of the legal notice, that is, the opposite party to resolve the issue cordially.
- It acts as a reminder for the receiver of the legal notice about the acts that have intentionally or unintentionally have created a problem for the sender.

When to send a Legal Notice?

There are numerous reasons for which you can send a legal notice to a person or an entity. However, the most common ones are:

- Disputes related to property such as mortgage, delayed possession delivery by the builder, eviction of the tenant, the partition of family property, etc.
- Notice to the employer for wrongful termination, unpaid salary, violation of any right of the employee by the employer, etc.
- Notice to the employee for violation of the HR policies, sexual harassment act at the workplace, leaving the job without handing over the resignation letter, ; violation of any provision of the employment agreement, etc.
- Notice to a company manufacturing or providing service of faulty products, faulty services, false advertisement, etc.
- Notice in the case of cheque bounce to the issuer of the cheque.
- Notice in case of personal conflicts such as divorce, maintenance, child custody, etc.

Essentials of Section 80 of Code of Civil Procedure, 1908

1. Name, description, and place of residence of the sender of the notice.
2. Statement of cause of action.
3. The relief claimed by the sender of the notice.
4. Summary of the legal basis for the relief claimed.

Is serving of Legal Notice mandatory?

As per Section 80 of the Code of Civil Procedure, 1908 it is mandatory to serve a legal notice before the filing of a suit if the opposite party is Government or Public officer. But, in practicality, it is seen that Advocates serve legal notice before the filing of all the civil cases. However, it is not mandatory to serve a legal notice in all civil cases except in case of the filing of a suit against Government or Public officer but formally it is been sent by the party intending to sue.

The reason behind this is to bring it to the knowledge of the opposite party that the sender of notice is making the last effort to settle the matter in hand. Also, it gives a credibility to the story of the sender as it expressly states all the liabilities of the receiver.

How to draft a Legal Notice?

A legal notice is essentially a notice sent by an advocate on the behalf of his/her client. it is not mandatory for a person to send a legal notice through an advocate, he/she can id a legal notice on his/her own accord without the assistance of an advocate.

It is not even mandatory to send a legal notice as there is no specific provision/enactments of law that make it mandatory to issue a legal notice before filing a suit.

A legal notice is generally issued by an advocate on behalf of his/her client for the purpose of soliciting a settlement. It is issued either to accept the settlement or to reject it altogether in order to avail a civil suit or legal remedies.

Demo Legal Notice

Step 1

Below is a sample letterhead of the advocate who is issuing the legal notice. The letterhead is to be specific and proper, it has to have addresses and contact details of the advocate. This aspect is very important as a letterhead needs to be specific and clear so that the opposite party may respond to the advocate in case they wish to contact the advocate. The date on which the legal notice is issued and the name, address and contact details of the person to whom the legal notice is issued is to be stated and accordingly, the notice is to be commenced.

A legal notice could be sent through a Registered A.D. or through a courier. There is no specific procedure to issue a legal notice. The notice can also be personally tendered to the opposite party, as long as the opposite party is willing to receive it and sign an acknowledgment of its receipt. There is no compulsion to send a legal notice only through a Registered A.D. or through a courier. The reason it is preferred to send it through Registered A.D. is that the receiver acknowledges the receipt of the notice on the Registered A.D. card which is then returned back to the sender, therefore, it becomes a document of proof as it regards the opposite party having received or receives the legal notice.

Now, getting into the notice the first paragraph should be "Under the instruction of my client’s ___ residents of ___. I have to address you as

under-". This is the system that is generally followed, but you can also follow a different system.

For example- I am concerned for my client _____who is a resident of _____andaccordingly, I have the privilege of addressing you upon his/her instructions.

…….& ASSOCTATES

Advocates and legal ……

office……
……..
……..

place…….

REGISTERDAD A/D

To,

Mr……..
H.No. ……..
……..

Sir/ Madam,

Under Instruction of my clients ……residents of H. No ……Goa I have to address you as under.

Step 2

Every paragraph in the notice is to be prefixed with the phrase "My Clients state", This is a very good practice as the opposite party has to know that the statements that are being stated in the notice are coming directly from the client and that they are not created or fabricated by the advocate. When this phrase is prefixed before every paragraph, the opposite party understands that the client is instructing the advocate specifically to state such statements in the notice and the opposite party understands that whatever the advocate is saying is based upon the client's instruction so that the reputation of the advocate is not tarnished in front of the opposite party and helps in inviting the settlement.

The notice that is being provided here is a notice that is been issued by the landlord to the tenant for the purpose of recovery of rent, that is, the tenant has defaulted in making the payment of rent, therefore, the landlord is issuing a statutory notice to the tenant calling upon the tenant to make payment of the rent of a specific period defaulting which the landlord should be constrained to pursue civil remedies before the civil courts.

You can see the contents of the notice below and know that how to draft a legal notice and what language is to be used while drafting, but one thing that you all need to keep in mind while drafting is that you have to always prefix "My Clients state" before every statement of yours.

1. My clients state that you are in occupation of a structure, which is an extension to the residential house belonging to my clients, on the Southernside, which is surveyed under ChalanNo. …….. and …. of P.T. Sheet No. ……. in the Office of that City Survey of ……Goa, as tenants of my clients.
2. My clients state that you regularly paid rent amounting to Rs. …… per month and which was subsequently to an amount of Rs. …….. per month. My clients farther state that the rent was being regularly handed over to the late wife of my client Smt. _____ during her life time by you and no receipts of that rent to my paid were issued, as you did not insist for the same
3. My clients states that after the demise of Smt. …… in the month of May ……. you have failed refused and neglected to pay the monthly rents to my clients.
4. My clients state that the house presently in possession of my clients is insufficient for them as one of my client Mr . …… is married while other two some of Shri. …… intend to get married. My clients further states that as the House No. …….. wherein my clients reside in insufficient for them. the part occupied by you is requited for the b… .fide occupation of my clients

5. My clients state that the rental arrears fallen due have amounted to Rs …….. being monthly rents from
6. My clients therefore instructed me to issue a legal notice to you which I hereby do, calling upon you to pay my client a sum of Rs. …… being rental arrears which are due and payable by you willing 30 days of the receipt to this notice. Your tenancy also stands terminated as the and of the statutory period and you are hereby called upon to land over peaceful and vacant possession of the demised premises to my client within 30 days of the receipt of this notice failing which my client shall be constrained to file a suit for eviction against you under the relevant provisions of the Goa, Daman & Diu Rent Control Act

   Please note that the costs and caution of such amount initiated by my clients will have to be home by you.

   Yours faithfully

Step 3

An important part of a notice is that you have to state that what you want from the opposite party. What you want to convey to the opposite party is always stated in the last paragraph. In the last paragraph, you instruct/intimate the opposite party that the opposite party has to do so and so within the specified period of time failing which the sender will be constrained to avail the civil remedies.

In this notice, the time limit is an important aspect.You have to fix a specific time limit within which the opposite party has to act, because if the opposite party did not act within the specified time limit then it gives you an excuse to pursue legal action, it givesyou a cause of action. Therefore, a specified number of days has to be mentionedpreferably it should be 30 days because it gives the opposite party ample time act and respond to the notice or should he abide by or fullfill the contents of the notice.

You can also frame the last paragraph differently, that is, if in the event you are issuing the notice for the purpose of inviting a settlement than you can always state in the last paragraph that you are hereby called upon to settle the matter amicably or that you a, hereby called upon to meet me in the office or something of that sort for the purpose of settlement which is not always that you have to give the opposite party an ultimatum. You can also ask/invite the opposite party for a settlement. It will not hamper your recourse to the legal remedies in case the notice fails.

Step 4

Subsequently, you have to sign as an advocate. This part of the notice is also very important, especially nowadays this part of the notice is an invoke and in this, you have to clearly state that you are issuing the notice under the instructions of your client and you have to obtain the signature of your client. This would act as an estoppel as against your client from saying that the notice was not directed to issue by him because quite often this happens that if the advocate has faulted somewhere than the client alleges against the advocate and file complaints even before the consumer forum for deficiency in service. Therefore, if the signature of the client is taken then it stops the client from saying that he did not read the contents of the notice. If the client can't read English, then it would be good if the

contents of the notice are being read and explained to the client in whichever language he is comfortable with.

Best practices on sending legal notice

- One can draft a legal notice on their own, however, contacting a lawyer is always a better option.
- Make sure the notice is drafted in lawyer's letter pad.
- Prefer colour printout of the notice where lawyer's logo, if any is available,
- Always keep two copies of notice, one with you one with your lawyer.
- Post the notice in an envelope having lawyer’s logo. Ask him to provide the envelope.
- Client's and lawyer's signature is a must in the notice.

Legal Notice Format

ADVOCATE NAME
OFFICE ADDRESS
DESIGNATION

CONTACT NO.

Ref, No._____
Dated:_____
REGISTERED A.D.
To,
1 –_____
2- _____

SUBJECT: LEGAL NOTICE UNDER SECTION__OP___ ACT,_____.

Dear Sirs,

Under instruction and on behalf of our client ___ son of ___, resident of ___, I dohereby serve upon you with the following notice under section _ of the ___ Act

1- That my client _____.

2-That since _____.

3-That on _____.

4- That my client filed a Demand Notice _____.

I therefore through this Notice call upon you _____.

A copy of this legal notice is retained in my office for further necessary action.

ADVOCATE NAME

Conclusion:

A legal notice is a formal legal document that is being prepared by an advocate for his client. Though it is not mandatory to send legal notice before the filing of suit in all cases still it is considered as a very important document in the course of any legal proceedings as in most of the cases actual disputes or issues get resolved even without going to the court of law with a mere serving of the notice. The efficiency of a legal

notice also depends on the drafting skills of an advocate, how he drafts the issues involved in a presentable manner for the receiver.

Importance of Legal Drafting Skills for Lawyers:

The legal profession swears by the maxim, "verbalVolant," which means spoken words fly away, written words remain!

Drafting and legal writing skills aren't pivotal for a law student, lawyer or judge. Did you notice the mistake in that sentence? Even the smallest mistake can change the entire meaning of a sentence - an error in a legal document can cost a client his case!

Haggard has said that "Drafting is one of the most intellectually demanding of all lawyering skills. It requires a knowledge of the law, the ability to deal with abstract concepts, investigative instincts, an extraordinary degree of prescience, and organizational skills,"

Legal drafting skills begin with having a strong command over the language. A lawyer must connect his words like pearls in a string! Legal documents that are flawless and error-free, win half the case for a lawyer,

A well-drafted document is equivalent to a strong argument and can make or break a case: A legal document, whether it is a contract, written statement or an affidavit, serves two purposes- informing and engaging both the client and the court about the legal issue. It becomes essential for lawyers and judges to draft all legal documents with precision, to clearly depict all essential facts as well as engage a layman to its content.

The use of legal language and its significance is as explained below:

a. **Sale Deed:**

This **DEED OF ABSOLUTE SALE** executed at on this the day of,2004by **s/o** **residing at|**

Hereinafter called the **VENDOR** of the one part which expression shall include his executors, administrators, legal representatives, successors etc.

TO AND IN FAVOUR OF _____ w/o _____ residing at

Hereinafter called the **PURCHASER** of the Other Part which expression wherever the context so requires shall mean and include his heirs, executors, administrators, legal representatives, successors etc.

WHEREAS the VENDOR herein has purchased the said property more fully described in the Schedule hereunder from Thur._____in and by sale deed dated ___and registered on ____as Document No.____of (year) of Book 1 volume No,___filed at pages to____on the file of the Sub Registrar of

WHEREAS the VENDOR herein has been in exclusive possession and enjoyment of the property more fully described in the **Schedule** hereunder with a constructed house thereon,which was constructed by him with his self-earned funds, till date.

WHEREAS the **VENDOR**___ is the exclusive owner of the property more fully described in the schedule hereunder and he has absolute right to dispose of the same as in the manner he wishes;

AND WHEREAS the **VENDOR** is in need of funds in order to meet his personal commitments and family expenses and has decided to sell the property more fully described in the **Schedule** hereunder for a sum of Rs _____/- (Rupees only) and the **PURCHASER** herein has also agreed to purchase the same for the said price and to the effect they entered into an agreement to sell dated.

NOW THIS DEED OF SALE

THAT in pursuance of the aforesaid agreement and in consideration of a sum of **Rs. _____ (Rupees . _____ only)** received by the **VENDOR** in cash and the receipt of the said entire consideration of **Rs. _____ (Rupees only),** the **VENDOR** doth hereby admit, acknowledge, acquit, release and discharge the **VENDOR** from making further payment thereof and the **VENDOR** doth hereby sell, convey, transfer, and assigns unto and to the use of the **PURCHASER,** the property more fully described in the **Schedule** hereunder together with the water ways, easements, advantages and appurtenances, and all estate, rights, title and interest of the **VENDOR** to and upon the said property **TO HAVE AND TO HOLD** the said property hereby conveyed unto the **PURCHASER** absolutely and forever.

THE **VENDOR**DOTH HEREBY COVENANT WITH THE **PURCHASER** AS FOLLOWS:

1. **That** the property more fully described in the **Schedule** hereunder shall be quietly and peacefully entered into and held and enjoyed by the **PURCHASER** without any interference, interruption, or disturbance from the **VENDOR** or any person claiming through or under him.

2. **That** the **VENDOR**has absolute right, title and full power to sell, convey and transfer unto the **PURCHASER** by way of absolute sale and that the **VENDOR** has not done anything or knowingly suffered anything whereby his right and power to sell and convey to the **PURCHASER** the property hereby conveyed.

3. **That** the property "is hot subjected to any encumbrances, mortgages, charges, lien, attachments, claim, demand, acquisition proceedings by Government or any kind whatsoever and should thereby and the **VENDOR** shall discharge the same from and out of his own funds and keep the PURCHASER indemnified.

4. **That** the **VENDOR** hereby declares with the **PURCHASER** that the **VENDOR** has paid all the taxes, rates and other outgoings due to Local bodies, revenue, urban and other authorities in respect of the property more fully described in the Schedule hereunder up to the date of execution of this sale deed and the **PURCHASER** shall bear and pay the same hereafter. If any arrears are found due to the earlier period, the same shall bedischarged by the **VENDOR**

5. **That** the **VENDOR** has handed over the vacant possession of the property more fully described in the **Schedule** hereunder to the **PURCHASERon** and delivered the connected original title document in respect of the schedule mentioned property hereby conveyed on the date of execution of these presents.

6. **That** the **VENDOR** will at all times and at the cost of the **PURCHASER** execute, register or cause to be done, all such acts and deeds for perfecting the title to the **PURCHASER** in the property hereby sold and conveyed herein.

7. **That** the **VENDOR** do hereby covenants and assures that the PURCHASER --_; to have mutation of his name in all public records, local body and also obtain pitta in the name of the PURCHASER and undertakes to execute any deed in this respect.

SCHEDULE OF PROPERTY

The Market Value of the Property is Rs.

In witness where of the **VENDOR** and the **PURCHASER** have set their signatures on the day month and year first above written.

Witnesses:

VENDOR

1)

2) THE PURCHASER

Drafted by:

b. **Gift Deed:**

DEED OF GIFT OF MOVABLE AND IMMOVABLE PROPERTY

THIS DEED OF GIFT is made this .....day of .....20... Between ABS/O.....R/O.....(herein after called the Donor) of the one part and CD S/o

.....R/o..... (Herein after called the Donee) of the other part.

WHEREAS the Donor in consideration of natural love and affection towards the Donee hereby declare and confirm to give the Donee freely and voluntarily , absolutely and forever the several movable properties and the absolute owner in possession of the lands, tenements, hereditaments and premises herein after fully mentioned and described in the Schedules herein under with all beneficial interest therein and delivered possession thereof simultaneously with a view to divest himself of all ownership and pass title thereof unto and favour of the Donee to all intents and purposes and that the Donee hereby declare that the Donee accepts the gift as aforesaid and took into possession and control of the same.

Usual covenants as in a sale deed and that the Donee accepts the gift of the said property hereunder made as testified by the Donee being a party hereto and executing these presents .The estimated value of the immovable property is Rs.....

SCHEDULE OF THE MOVABLE PROPERTY

Sr Description Valuation Remark no , ifany

SCHEDULE OF THE MOVABLE PROPERTY

AtGatNo.....Surveyno.....Village .....Tal.....District.....Area.....AtEast.....At West.....At South.....

At North.....IN WITNESS WHEREOF THE Donor Has executed these presents and theDonee has accepted the gift on the day, month and year above written

Witness	Sd/-
1.....	Donor
2.....	Sd/ Donee

c. Release Deed:-

RELEASE DEED

This DEED OF RELEASE executed on this the day of - , 2004 by s/o residing at

Hereinafter referred to as the**RELEASORS** ofthe One Part;

TO AND IN FAVOUR OF

S/o residing at

Hereinafter referred to as the **RELEASEE** of the Other Part;

The term **RELEASORS** and **RELEASEE** shall mean and include their heirs, executors, legal representatives and assigns.

WHEREAS the property measuring an extent of sq.ft and building thereon situated in Door No. Road in Village, in GramaNatham Survey No. and within the limits of Taluk, District was acquired by Thiru , the father of the Releaser and the Release herein in and by sale deed dated from Thiru. and registered as Document No. of of Book 1 volume filed at pages to on the file of the Sub Registrar of

WHEREAS the father of the Releaser and the Release died intestate on leaving behind the Releaser and Release as his class 1 legal heirs.

WHEREAS the property morefully describedin the Schedulehereunder is one of indivisible and it has been agreed by the Releaser to release his undivided half right in the property hi favour of the Release and theRelease has also accepted for the same.

NOW THIS DEED OF RELEASE WITNESSETH AS FOLLOWS;

THAT the RELEASOR in consideration of receipt of a sum of Rs. /- (Rupees Only) from the **RELEASEE** herein has released and relinquished his undivided half right in the property more fully described in the Schedule hereunder in favour of the **RELEASEE** herein.

THATthe **RELEASOR**hereafter do not have any right, title, interest over the schedule mentioned property and the**RELEASEE** hereafter enjoy the same absolutely with full right, title and interest over the property more fully described in the schedule hereunder.

THAT the **RELEASOR** covenant and undertake to execute any further documents that may be necessary for assuring the title in favour of the RELEASEE herein in respect of the property more fully described in the Schedule hereunder at the cost of the **RELEASEE**.

SCHEDULE OF PROPERTY

Value of the Claim hereby released is Rs.

In Witness Whereof the RELEASORS have set their hands and Signatures on the day, month and year first above written in the presence of

WITNESSES: RELEASOR

1.

2.

Drafted by:

d. General Power of Attorney:

THIS GENERAL POWER OF ATTORNEY executed on the _____ day of _____Two Thousand:

BY : [Name/s]

IN FAVOUR OF : [Name/s]

WITNESSES AS FOLLOWS:

I. WHEREAS I am the absolute Owner of all that Property [Details] more fully described in the Schedule below and hereinafter referred to as the "SCHEDULE PROPERTY";

II. WHEREAS I deem it necessary to appoint Agents and Attorneys to carry out certain acts in connection with the management and disposal of the Schedule Property;

III. NOW KNOW ALL MEN BY THESE PRESENTS THAT, I _____ above named, do hereby nominate, constitute andappoint (1) MR. and (2) MR. above named, as my true and lawful Attorneys, in our name and on our behalf, to do either jointly or severally, all or any of the following acts, deeds and things, in regard to the Schedule Property:

a) to manage the Schedule Property and pay all taxes, rates and cesses, charges, fines and other levies in regard to the Schedule Property and obtain receipts and discharges;

b) to appear for and represent us before all Government, Statutory, Local, Revenue, Tax and other Authorities as also Courts and Tribunals in regard to the Schedule Property;

c) to submit applications and affidavits, statements, returns to the Government and/or any other Statutory Authorities concerned to

Obtain necessary clearances, exemptions, sanctions and permissions required under any Act/ Law;

d) to enter into agreement/s for sale of the Schedule Property and to sell and convey the Schedule Property and execute Deed of Sale in favour of purchaser/s; and do everything necessary for completing the conveyance and registration of such Sale Deeds; and to sign all Forms, Affidavits, applications in that behalf;

e) to receive the sale consideration, advances, earnest money deposits, part payments and balance payments in regard to the sale of the Schedule Property and issue receipts and acknowledgements therefor;

f) to apply for and obtain all clearance certificate/s and/ or no objections required from the concerned Authority;

g) to apply for and obtain necessary clearances, permissions and consents required in connection with sale of the Schedule Property;

h) to represent me before all Government, Statutory, local and other Authorities as also Courts and Tribunals;

i) to initiate, prosecute and defend all arbitration, legal, Revenue, tax and other proceedings relating to the Schedule Property and in that behalf, engage the services of legal and tax practitioners, instruct them and remunerate them;

j) to sign and execute pleadings, applications, petitions, affidavits, declarations, memoranda of appeal, Revision and Review, Returns and other papers/documents and to receive and accept service of processes, Notices, Orders and acknowledge them;

k) to settle, compromise, compound, withdraw any Suit/ proceeding relating to Schedule Property and obtain return thereof; and to do all things and be in charge of conduct of such or proceeding;

l) to pay all rates, taxes and cesses and obtain receipts therefor;

m) and generally to do all other acts, deeds and things necessary in regard to disposal of the Schedule Property;

I HEREBY AUTHORISE my said Attorneys to delegate all or any of the aforesaid powers to anyone else;

I HEREBY AGREE AND UNDERTAKE TO RATIFY AND CONFIRM all and whatsoever my said Attorneys may lawfully do pursuant to this Power of Attorney;

SCHEDULE

[Details]

IN WITNESS WHEREOF we have executed this POWER OF ATTORNEY in the presence of the Witnesses attesting hereunder:

WITNESSES EXECUTANTE

1)

2)

[Note: Format only to be modified to suit the transaction/ authority sought to be given]

e. Will:

<u>Important points to be considered for preparing a Will in India:</u>

1. As per Sec 5 of Indian Succession Act, 1925: A Will is a legal declaration of the intention of a testator with respect to his property, which he desires to be carried out after his death.
2. As per S. 59 of ISA, any person who is not a minor and is of sound mind can make aWill.
3. As per S. 74 of ISA, a Will need not contain any technical word. Plain simple language is enough but it must be clear and unambiguous.
4. Will is of two kinds-
    1. Privileged - Made by special class of persons such as soldier at war). It need not be attested.
    2. Unprivileged - Made by ordinary persons. Must be signed and attested by two persons.
5. A person can make a Will anytime and any number of times. The most recent Will is the one that takes effect explicitlycancelling the previous Will is not required.
6. Registration of a Will is not necessary but is recommended. ~
7. Format of a Will
    1. Heading
    2. Properties - their description and the beneficiaries
    3. Name any sole beneficiary or universal legatee
    4. Name the executor
    5. Closing .
    6. Signature and attestation

Sample Will Deed:

I, ...s/o .....r/o..... age .....yrs. execute this will with a freeconsent and sound mind . I am the sole owner of the properties mentioned in **Schedule I** annexed with this will and 1 hereby declare that all those properties are myself acquired properties and I have ,therefore full authority to bequest them by this instrument. I hereby bequest the properties mentioned in **Schedule II, Schedule HI and Schedule IV** respectively to my wife Smt..... to my elder son.,,.....& to my younger son ..... Theproperties hereby bequeathed shall be held by the respective persons on my death with full authority to dispose them of in any manner they like. I hereby appoint my elder son, (name) as the sole executor of this will.

I hereby declare that this is the last and one will of my own. In witness whereof I, ...have signed this will on the .....day of.....month & year in the presence ofShri.....s/o.....and Shri.....s/o/.....r/o..... have witnessed the execution of this
will and attested the same in my presence.

TESTATOR
s/d

Witness
1..... s/d
2.....s/d

SCHEDULE-I
[List of properties of Testator)

SCHEDULE-II

(Properties bequeathed to Smt .....wife of Testator)

SCHEDULE-III

(Properties bequeathed to Shri ....the first son of Testator)

SCHEDULE-IV
(Properties bequeathed to Shri ....second son of the Testator)

MEDICAL CERTIFICATE

I ,Dr.....do hereby certify that the physical and mental condition ofMr..... is normal on this... .....day and .....month & year.

Q. 2 Use of Legal Language in Drafting in Legal Notices [Notice to Tenant on behalf of Landlord and vice versa and Notice to Husband on behalf of Wife and vice versa)

Ans.2 Use of Legal Language in Drafting in Legal Notices is as illustrated below:

a. Notice to Tenant on behalf of Landlord and vice versa:

Registered A.D.

AB

Advocate, High Court

Date ……..
Shri . …….
……..

Dear Sir,
Under instructions from my client Smt. X wife of Shri .....residentof.....owner of the house bearing No. .....

I hereby give you notice that the lease deed dated ..... made between myclient of the ONE PART and you on the OTHER PART in respect of premises No. ..... (Hereinafterreferred to as demised premises), has expired byefflux of time on the .....dayof ..... 2000, and I hereby call upon you to quit,vacate and deliver quiet and peaceful possession of the demised premises on or before the .... day of ..... 2000, failing which my client will file a suitagainst you for recovery of possession of the demised premises and for damages, which may be sustained by her by reason of your willfully retaining possession thereof and for breach by you of the covenants contained in the lease deed.

Yours faithfully

AB

Advocate

b. Notice to Husband on behalf of Wife and vice versa:

Lawyer's Name
ADVOCATE

Address Line 1
Address Line 2
Phone No.
City

Dated:

To

NOT1CE(BY REGISTERED A.D.)

Smt.

C/0 Shri X.....Y.....Z.

Address

Address

Madam,

Under instructions from and on behalf of my client, Shri ABC, Address Line1, Address Line 2, I have to address you as follows:

1. That you are a legally wedded wife of my client, your marriage having been solemnised at Surat on 31st December 200… according to Hindu religion, vaidic rites and ceremonies.

2. That after your marriage to my client, you resided and cohabited with my client for about one and a half years, in the beginning at Mumbai and lastly at Pune.

3. That out of the said wedlock, you have begotten a daughter named Buzy, on....

4. That during the period of your cohabitation with my client, you were always in the habit of going away from my client and staying with your parents against the wish of my client and at your own sweet will.

5. That during the said period of cohabitation, you always insisted upon my client that he should live apart from the other members of his family, and you also used to detest not only the parents of my client and the other members of his family, but also my client in person, and such an attitude on your part was antisocial and inhumane, too.

6. That on..... when your uncle had come to Pune, you left the house of my clientunder the pretext of attending the betrothal ceremony of your cousin, and at that time, you had put on your person all the gold and other ornaments and jewellery of the family of my client.

7. That while leaving the house of my client, you also told my client and his parents that you would return back within a couple of days, and you had accordingly asked the mother of my client to let the baby with the family of my client, and when you did not turn up to Pune for about a fortnight, my client and his parents came to a tacit conclusion that on..... Itself, you had in mind your ulterior motive to leave the company and society of my client and never to resume cohabitation anytime thereafter, and leaving a nine-month old baby at the mercy of nobody,it was cruelty on the part of your motherhood, and by such an act, you have brought not only a bad name to the whole of your clan but also cursed the womanhood, as a whole.

8. That my client has no words to describe such very indifferent attitude and nature on your part, which is simply disgusting.

9. That since the time you have left the company and society of my client and the young baby, my client, his parents and relatives made all possible and sincere efforts to bring you back for cohabitation with my client, but you have paid no respect to your own conjugal relationship with my client, and it appears that after passing all these days away from my client and the young innocent soul, you have been careless and indifferent towards the domesticity of my client, and my client, while bringing up the child and looking after her welfare and health, has lost all his hopes to have a wise thought on your part for resuming cohabitation with him.

10. That my client my client also further says that the act of leaving the society of my client without any reasonable ground amounts to cruelty and desertion, which is illegal on your part, and you are really answerable for the same.

11. That taking into consideration the very delicate relationship between my client and yourself and also giving a second thought to the future of the baby, my client does hereby call upon you to resume cohabitation with him WITHIN TEN DAYS from the receipt hereof, failing which my client shall take it for granted that you are no more sincere and interested in cohabitation with my client, and my client would then be constrained to take against you an appropriate legal action including filing a petition, for divorce and recovering from you gold ornaments and jewellery, and in that event, you shall have to thank none but yourself for all the faults and follies on your part alone, which please note.

Yours faithfully,
(Lawyer's Name)
ADVOCATE

4. ADVOCACY SKILLS

1.	Meaning of Advocacy
2.	Advocacy as an Art
3.	Qualities of Lawyers (Good voice, command of words, confidence, practical wisdom, etc.]
4.	Use of Rhetoric- Figures of Speech (Euphemism, Hyperbole, Irony, Metaphor, Paradox, Simile, Synecdoche and Understatement)
5.	Etiquettes and Manners for Law Professionals
6.	Client Counselling and Interviewing

Meaning of Advocacy

Advocacy is defined as any action that speaks in favour of, recommends, argues for a cause, supports or defends, or pleads on behalf of others. This fact sheet offers a look at how advocacy is defined, what kinds of activities comprise advocacy work, and what kinds of advocacy projects several tax-exempt groups are currently leading.

Advocacy in all its forms seeks to ensure that people, particularly those who are most vulnerable in society, are able to:

- Have their voice heard on issues that are important to them.
- Defend and safeguard their rights.
- Have their views and wishes genuinely considered when decisions are being made about their lives.

Advocacy is a process of supporting and enabling people to:

- Express their views and concerns.
- Access information and services.
- Defend and promote their rights and responsibilities.
- Explore choices and options

An advocate is someone who provides advocacy support when you need it. An advocate might help you access information you need or go with you to meetings or interviews, in a supportive role. You may want your advocate to

write letters on your behalf, or speak for you in situations where you don't feel able to speak for yourself.

Our advocates will spend time with you to get to know your views and wishes and work closely to the Advocacy Code of Practice. ; Advocacy can be helpful in all kinds of situations where you:

- Find it difficult to make your views known.
- Need other people listen to you and take your views into account.

Independence

People you know such as friends and family or health or social care staff, can all be supportive and helpful - but it may be difficult for them if you want to do something they disagree with.

Health and social services staff have a 'duty of care' to the people they work with. This means they may feel unable to support a person to do anything that they don't believe is in a person's best interests.

But an advocate is independent and will represent your wishes without judging you or giving you their personal opinion. We believe that you are the expert on your life and it is your view of what you wish to happen that our advocates will act upon.

Confidentiality

All information and communications between you and seep Advocacy will remain confidential unless you tell us something which leads us to believe you or someone else may be at risk of serious harm or abuse, or assisting a serious criminal offence - or if there is a court order for disclosure.

Advocacy is an art because of the following points:

Issues of law involve taking a large quantity of data, sifting the relevant from the irrelevant, and applying pre-existing rules to the relevant data to achieve an answer.

There's plenty of scope for intuition and creative thinking, within the confines of the rules. We can say that makes it a science.

Advocacy is a part of the legal process, but it's not strictly "law". As they say, an advocate is a performer, usually a more subtle one than those portrayed on stage on screen. In that sense, Advocacy is an art

The two aren't mutually exclusive. Some good lawyers are excellent advocates too, but there are many fine lawyers who are indifferent advocates (and, to a lesser extent, vice versa)

Not everything can be categorized as either science or art. The law is neither, it is a social construct, a system of rules intended to be put into use to benefit a society.

According to the strict technical definitions of both art and science, many things do not fall strictly within either. It is a common choice of phrase to say, "The art and science of xyz..." which simply implies that many things have rules and systems as a part of them as well as subjective areas of judgement It shouldn't be taken literally.

The law is logical and systematic, and it can use science in the establishment of proof.

In a courtroom, particularly in jury cases the law can be applied creatively, and a good lawyer often puts on a theatrical performance of sorts (although rarely in as exaggerated fashion as in film or TV dramas.)

Law is an incredibly important thing: the formal subset of the rules that help societies achieve civilization.

Essential qualities for a Lawyers (Good voice Command of words, confidence, practical wisdom, etc.)

---

a. **Good voice:**

Lawyers must be orally articulate, have good written communication skills and also be good listeners. In order to argue convincingly in the courtroom before juries and judges, good public speaking skills are essential. Communication and speaking skills can be developed during your studies by taking part in activities such as mooting or general public speaking.

For lawyers in private practice, being a good speaker is vital. A prospective litigator must develop the art of modulating his/her voice as per the demand of the situation to emerge successful. Oratory skills

matter the most for a lawyer. A lawyer's capital is her speech. The gift of the gab is a pre-requisite for a successful career in law

b. Command of words:

Lawyers must also be able to write clearly, persuasively and concisely, as they must produce a variety of legal documents. But it's not all about projection. To be able to analyse what clients tell them or follow a complex testimony, a lawyer must have good listening skills.

Command over the language too matters a lot. A lot of people ignore this, but I believe being articulate is just as important as anything else to be a successful lawyer.

A lawyer need to be able to express himself efficiently and lucidly to do well at the court

c.Confidence:

Confidence is the first and a lot of times the only thing that makes a difference in a lawyer's life! I have often been told in law school that no matter what happens while arguing, you ought to be so confident that the judge should consider your view despite holding an opposite one!

d. Practical wisdom:

Becoming a successful lawyer requires a different kind of intelligence! You see in any other field, you learn a principle and you apply it. In law though, learning a principle is just the first step. The application isn't done by the lawyers. The application is done by the government.

The lawyer's aim to find a loophole in the law and convince a judge about it! Takes a different kind of shrewd intelligence to be good at this!

Clients need the empathy, perspective and personal connection of their lawyers to feel whole and satisfied where colleagues need engagement, respect and understanding to be their best.

e. Other essential qualities:

i. **Financial literacy** Almost every client and every case involves money in some way, and every lawyer in, private practice is running a business of one size or another. Financial literacy becomes essential in such a scenario.
ii. **Technological affinity:** It has become one of the basic qualities of a lawyer these days. If a person cannot efficiently use e-mail, access the Internet, work with instant messaging, Adobe Acrobat and the like, clients and colleagues will pass you by.

iii. **Time management**To achieve and meet deadlines, whether it is in corporate or litigation practice, time management is very essential. An effective lawyer is one who knows how to manage time.

iv. **The 3As** - Attitude, Aptitude and Analytics. These qualities make a lawyer expert in analysing the legal problems and arriving at calculated conclusions.

v. **Perseverance:** During initial years a fresh law school graduate may face harsh working hours but one must be patient and focus on deserving instead of desiring.

vi. **Team work**; Lawyers who collaborate well possess the ability to identify and bring out the best others have to offer, submerging their own positions and egos where necessary in order to reach the optimal client outcome.**Networking**iskey so get good at ease in crowd and making small talk.

vii. Precision:

Law is a discipline which demands **Precision.** And that will be your life's ally! Tobe precise matters most in law for a full stop or a comma can make a bigdifference. No matter what you do, precision will aid you and in the end, it willimmensely satisfy you.

viii. Judgement:

The ability to draw reasonable, logical conclusions or assumptions from limited information is essential as a lawyer.

You must also be able to consider these judgements critically, so that you can anticipate potential areas of weakness in your argument that must be fortifiedagainst.

Similarly, you must be able to spot points of weakness in an oppositions argument Decisiveness is also a part of judgement. There will be a lot of important judgement calls to make and little time for sitting on the fence.

Use of Rhetoric- Figures of Speech (Euphemism, Hyperbole, Irony, Metaphor, Paradox, Simile, Synecdoche and Understatement)

FIGURES OF SPEECH

We use figures of speech in "figurative language" to add colour and interest, and to awaken the imagination.

Figurative language is everywhere, from classical works like Shakespeare or the Bible, to everyday speech, pop music and television commercials.

It makes the reader or listener use their imagination and understand much more than the plain words.

Figurative language is the opposite of literal language.
Literal language means exactly what it says.

Figurative language means something different to (and usually more than] what it says on the surface:

EXAMPLE

- He ran fast.**(literal)**
- He ran like the wind, **(figurative)**
- Here "like the wind" is a figure of speech (in this case, a simile).

In some respects, they are the foundation of communication.
Figures of Speech are a set of tools essential for all writers.
Conveying a complex idea can be virtually impossible without an IMAGE or analogy.
FIGURES of SPEECH serve two roles:

(A) DECORATION:

We all love to decorate our home.
What would your home be like without them?
They give beauty and variety to what we wish to show
Same way- 'Figures of Speech' are decorations we use for our writing. Without them our writing would be boring.

(B) CLARITY:

A complex subject can best be conveyed imaginatively and captivatingly

The purpose of learning Figures of Speech is to make you aware, as writers, of the power and degrees of choice you have when using it in English.

Commonly used FIGURES OF SPEECH:

1. **SIMILE:**

A Simile shows a likeness or comparison between two objects or events. A simile is usually introduced with the words- like, as, as. .....so.

Examples:

I. She is as pretty as a picture.
II. The story was as dull as ditch water. I
III. He is as sober as a judge.

2. **METAPHOR:**

A Metaphor is like a simile. Two objects are compared, without the words 'as or like'. It is an implied simile.

Examples:

I. He was a lion in the battlefield
II. Variety is he spice of life
III. She was a tower of strength in their trouble.

CAUTION:THE METAPHOR needs to be used carefully. THEREFORE, do not get too far-fetched; otherwise, the images you conjure up may be confusing or foolish. Do not OVERUSE or sustain beyond the point of interest. Avoid MIXED METAPHORS "He put his foot down with a firm hand".

3. **PERSONIFICATION:**

In Personification non-living objects, abstract ideas or qualities are spoken of as persons or human-beings.

Examples:

I. Necessity knows no law.

II. Hope springs eternal

III. Let the floods clap their hands.

IV. I kissed the hand of death.

NOTE- We frequently use personification - whether we know it or not - when we describe

- a promising morning

- a treacherous sea

- a thankless task

4. **APOSTROPHE:**

An Apostrophe is a development of personification in which the writer addresses absent or inanimate objects, concept or ideas as if they were alive and could reply.

Examples:

I. "Fair daffodils, we weep to see you haste away so soon".

II. "0 wind, where have you been?"

IV. Lead, Kindly light, amid the encircling gloom.

5. **OXYMORON:**

An Oxymoron is when two terms or words are used together in a sentence but they seem to contradict each-other. Oxymoron is a statement which, on the surface, seems to contradict itself - a kind of crisp contradiction. An oxymoron is a figure of speech that deliberately uses two differing ideas. This contradiction creates a paradoxical image in the reader or listener's mind that generates a new concept or meaning for the whole.

Examples:

I. Life is bitter sweet.
II. He is the wisest fool of them all.
III. He was condemned to a living death.

6. **ANTITHESIS:**

In Antithesis, one word or idea is set in direct contrast against another, far emphasis. It is a combination of two words, phrases, clauses, or sentences contrasted in meaning to offer a highlight to contrasting ideas. Antithesis occurs when you place two different or opposite ideas near each other.

Examples:

I. United we stand, divided we fall.
II. To err is human, to forgive is divine.
IV. We look for light, but all is darkness.

7. PUN:

Pun is a word or phrase used in two different senses. It is usually used in plays where one word has two different meanings and is used to create humor. Pun is a play of words - either their different meanings or upon two different words sounding the same.
Humorous use of a word to suggest different meanings or of words of the same sound and different meanings create humor and interest while reading also.

Examples: -

I. A bicycle can't stand on its own because it is too**tired.**
II. A boy swallowed some coins and was taken to a hospital. His grandmother phoned to ask how he was, a nurse said,'No **change**yet.'
III. Truly, Sir, all that I live by is with the awl; Imeddle with no tradesman's matters, nor women's matters, but with **awl**.
IV. Is life worth living? That depends on the **liver**
V. A trade, sir, that, I hope, I may use with a safe conscience; which is, n indeed,sir, amenderofbadsoles.

8. IRONY:

Irony is when one thing is said which means the exact opposite. With irony the words used suggest the OPPOSITE of their literal meaning. The effect of irony, however, can depend upon the tone of voice and the context. It is humorous or lightly sarcastic mode of speech. Words are used here to convey a meaning contrary to their literal meaning.

NOTE: AN IRONIC remark implies a double / dual view of things:

a. a literal meaning, and :
b. a different intention
Irony can be used to create amusement - unlike Sarcasm. When used to taunt orridicule, Irony is called Sarcasm.

Examples:

I. Here under leave of Brutus and the rest, for Brutus is an honorable man, so are
II. they all, all honorable men.
III. The fire station burned down last night.
IV. As soft as concrete

V. As clear as mud
VI. He was suspended for his little mishap.
VII. The homeless survived in their cardboard palaces.

9. Climax

Climax is a figure of speech which rises in steps like a ladder from simple to more important.

Examples:

I. He came, he saw, he conquered.
II. He ran fast; He came first in the race; He was awarded a prize. HI.
III. Lost, broken, wrecked and dead within an hour.

10. ANTICLIMAX:

It is an arrangement of words in order of decreasing importance. Often, it is used to ridicule.

Examples:

I. The soldier fights for glory, and a shilling a day.
II. She lost her husband, her children and her purse.
III. He is a great philosopher, a. Member of Parliament and plays golf well.

11. HYPERBOLE-

Hyperbole is an exaggeration and things are made to appear greater or lesser than they usually are. Hyperbole is a literary device often used in poetry, and is frequently encountered in casual speech. Occasionally, newspapers and other media use hyperbole when speaking of an accident, to increase the impact of the story. No one imagines that a hyperbolic statement is to be taken literally. It can also be termed as OVERSTATEMENT. It may be used to evoke strong feelings or to create a strong impression, but is not meant to be taken literally.

Examples:

I. The burglar ran as fast as lightning.
II. The professor's ideas are as old as the hills.
III. The troops were swifter than eagles and stronger than lions.
IV. Her brain is the size of a pea.
V. I have told you a million times not to lie!

12. ALLITERATION:

Alliteration is a series of words that begin with the same letter. Alliteration consists of the repetition of a sound or of a letter at the beginning of two or more words.
Examples:

I. Dirty dogs dig in the dirt.
II. Cute cats cooking carrots.
HI. Some slimy snakes were slowly slithering. -.;
IV. Purple pandas painted pictures
V. White whales waiting in the water.

12. ONOMATOPOEIA:

Onomatopoeia is a figure of speech where a word is used to represent a sound. When you name an action by imitating the sound associated with it, this is known as. Onomatopoeia.Examples of onomatopoeia are also commonly found in poems and nursery rhymes written for children. Onomatopoeic words produce strong images that can both delight and amuse kids when listening to their parents read poetry,some examples of onomatopoeiapoemsfor children are BaaBlack Sheep and Old Macdonald had afarm-

Examples:
Zip goes the jacket
“Zip" is an onomatopoeia word because it sounds like a jacket is zipping up.
"Zip" is an example of onomatopoeia because it sounds like what it is. When you zipup a zipper the sound the zipper makes sounds like a zipper.

Here are other onomatopoeia words:
Boom, bang, slash, slurp,
Gurgle, meow, and woof

In the legal profession, exercising good manners is essential for success. Proper etiquette can help you land a job, get a promotion, and establish excellent relationships with others. Part of being a professional is knowing how to behave properly in the workplace.

What exactly is business etiquette? It is presenting yourself in such a way that allows you to be taken seriously. This involves demonstrating that you have the self-control necessary to be good at your job, have knowledge of business situations, and have the ability to make others comfortable around you. Lack of good business etiquette can causeyour clients and co-workers to distrust your capabilities and your judgment. Alarge part of business etiquette is conveying courtesy and respect for others. Here are some basic rules of behavior that demonstrate courtesy and respect.

1.Be on time.

When you arrive late to a meeting or appointment, you are wasting the time of the people with whom you are meeting. This can lead to resentment from fellow co-workers and clients.

Showing up to an appointment on time shows that you respect and value the other person. It demonstrates that you are dedicated to your job and interested in your work. Being on time shows you are committed to keeping your word. Clients and co-workers learn to trust you and know they can depend on you.

2. Dress appropriately.

Dressing inappropriately can be a distraction. It can also call into question your judgment and ability to make good decisions.

No matter what legal position you hold, you are a representative of your company or firm and you should dress accordingly. However, what is considered appropriate will vary from firm to firm. Some firms may expect you to dress formally, wearing suits most of the time. Other firms may allow employees to dress more casually on days when clients are not in the office. Find out what is acceptable in your firm and adhere to the norm.

3. Use simple manners.

Those good old-fashioned manners aren't old-fashioned after all "thank you", asking for permission, offering unsolicited help, all of these good manners will still take you a long way in the workplace. Simple sometimes be forgotten in today's legal industry. Because of this, people will notice if you consistently remember your manners. You can show you’reverbally, as well as in an email. For instance, if you ask a co-worker for help on a project, a thank-you email shows them you appreciate their contribution. It also is a sign of respect.

4. Be a good listener.

We have all been involved in a conversation where it is evident the other person is not truly listening to us. Maybe they are gazing off as you speak or maybe they interrupt what you are saying to add their comments. As a result, you probably did not think highly of them for their rude or distracted behavior. Good listening skills can set you apart and let others know you are engaged and interested.
It is very simple to be a good listener. Look the speaker in the eye rather than gazing around the room. Allow the speaker to fully finish speaking before responding. Don't rush the conversation or try to change the subject Avoid constantly comparing the other person's experience to your own. Continually inserting yourself and your experiences will be viewed as self-centered.

5. Know how to give and receive business cards.

Exchanging business cards is a common occurrence for many legal professionals. There are ways of giving and receiving cards that work better for establishing a relationship and conveying respect.

Give business cards using discretion. Handing out multiple cards at a time to one person may convey the message that your cards have little value. Hand the card over with the print facing the receiver so they don't have to turn it around to read it.

When receiving a card, thank the person handing you the card. Hold the card in both hands. Look at the card and read it immediately when you receive it. This shows you are interested in the person and their information. If you glance at the card and then drop it in your pocket, it may convey a lack of interest and appear rude.

6. Avoid cell phone distractions.

Cell phones and devices are very much ingrained in the way we do business today. However, there are still times when they can be obstructive rather than productive. One of those times is in a meeting. When in a meeting, you should turn your cell phone completely off. It's not enough to turn it to vibrate mode. When your phone vibrates, it will often still be heard by others. Reaching for your phone to silence the ring or vibration is still a distraction, draws unwanted attention to yourself, and disrupts the flow of the meeting.
If your telephone rings while you are speaking with others, resist the temptation to look to see who it is. Silence it immediately. This signals to the other person that they have your undivided attention and that your conversation with them is important to you.

Good Etiquette is Good Business

Having good manners can give you an advantage in your career as a legal professional. Practicing these simple rules will convey to people that you are trustworthy, have good judgment and are an emotionally-intelligent person. All of these traits will allow you to gain respect and build better work relationships.

Principles of Client Counseling and Interviewing

Introduction:

Lawyers are problem solvers. Whether we are defending a huge corporation in a multi-million dollar lawsuit or protecting the rights of a single parent in a pro bono case, we are helping our clients work through their problems.

Our success in helping our clients often depends on how effective we are in developing a strong professional relationship with them. Strong professional relationships build on trust, comfort, and communication. Effective client interviewing and counseling can facilitate the development of a strong professional relationship with our clients.

This article provides a brief summary of effective client interviewing and counseling. The first section outlines the format for a general client interview. The second section provides short descriptions for each part of the client interview. The third section highlights some fundamental counseling skills that may improve how effectively we interview and counsel our clients.

I. Outline for the Client Interview

Listed below is an outline for the basic parts to a client interview. The amount of time we spend on each part of the interview and the order of each part may vary depending on our level of experience with client interviews and the extent of information that we have available relating to our clients' cases prior to our interviews.

A. Before the Interview: Administrative Items
B. Greetings
C. Roadmap for the Interview
D. Information Gathering: Listening to and Understanding the Client's Story
E. Analyzing the Client's Problem
    1) Applying the law or preparing a research strategy to find the law.
    2) Discussion of potential solutions to the client's problems.
    3) Identification of documents to review and further individuals to interview.
F. Closing the Interview

II. The Client Interview: Descriptions and Illustrations

This section describes each part of the client interview. This section also provides short examples for each part of the interview

A. Before the Interview: Administrative Items

As legal professionals, we have an ethical code that guides our practice. Our clients need to be aware of confidentiality, potential conflicts of interest, and any billing or payments associated with our possible representation of them.

Many of us have client intake forms that describe and help lessen the amount of time that we spend on these administrative items. We may require our clients to fill out these forms before we have the client interview. Nevertheless, it is always important to make sure that our clients understand these administrative items and any other office policies that may be related to our potential representation of them. We can cover some of these initial administrative matters right after we greet our clients and provide a roadmap of how the interview will proceed.

B.Greetings

We often hear about the importance of first impressions. If we have never met with a 1 specific client before, the first few minutes of the client interview may be particularlysignificant to establishing a strong

professional relationship. A friendly greeting and some short small talk can help place some anxious clients at ease.

C. Roadmap for the Interview

Some initial small talk at the start of the interview can help establish rapport. Small talkcan also help us transition to a roadmap for the client interview. The roadmap outlines for the client what to expect during the interview.

D. Information Gathering: Listening to & Understanding the Client's Story

After we have outlined how the interview will proceed, we should sit quietly and listen to the client's story. We should try to limit close-ended questions at first, so that our clients have more freedom to describe their problems as they see their problems. If we immediately jump into specific factual questions that we feel are most relevant to the legal issues in play without fully hearing the clients' stories, we may miss a lot of. Significant information from the clients. The clients may neglect to tell us facts that are highly relevant to their cases. Our clients may feel that these facts are not important, since we did not specifically ask about these questions at the start. Alternatively, our clients may not trust us enough at this point to disclose potentially embarrassing or negative facts.

During the information gathering portion of the interview, we can take notes of any names, dates, and locations that might require a follow-up clarification. We can seek clarification on this information when we switch from open-ended questions that help clients tell their general narratives to more close-ended questions that might help fill in some of the details of the narratives.

While our clients are telling their narratives, we should utilize some basic counseling skills to continue to help build rapport we can actively listen to our clients.We can summarize our clients' stories. We can reflect on the emotional context of our clients' stories. And, we can show empathy. These counseling skills are more fully described in section III of this article.

E. Analyzing the Client's Problem

After we have actively listened, and after we have worked on understanding our clients' goals, values, and feelings, we can move to the analysis portion of the interview during this part of the interview, we begin to describe potential legal issues related to our clients' stories. We may begin to propose potential solutions to our clients' problems and discuss the risks and benefits related to these solutions. Finally, we may begin to outline additional work that we may need to perform in order to best represent our clients.

1. Applying the law or preparing a research strategy to find the law.

Depending on the amount of information that we may have had on our clients' cases prior to the interview, we may have conducted some initial legal research to help us prepare for the interview. We may try to describe some of the research and how the laws may apply to our clients' problems during the analysis portion of the interview.

At this point, we may begin to frame our discussions around the clients' potential legal issues. On the other hand, if we had little information on the clients' cases prior to the interview, we may describe what type of research we could perform to more appropriately identify the legal issues related to our clients' problems.

2. Discussion of potential solutions to the client's problems:

After we have had an initial discussion on any potential legal issues that may be related to our clients' problems, we may move forward and begin a conversation on potential solutions related to the legal issues.

During this portion of the interview, we can begin discussions on any legal rights and responsibilities related to our clients' problems. We can describe any potential risks and benefits associated to a variety of approaches to resolving our clients' problems, these approaches may include legal and non-legal alternatives.

While we are providing our advice and counsel, we should be cognizant of what the clients have told us with respect to their goals, values, and expectations. We should ask our clients how the proposed solutions to their problems match up with what they want to get out of their case - financially, physically, and emotionally

3. Identification of documents to review and further individuals to Interview.

The analysis portion of the interview can provide an opportunity for us to identify documents to review and further individuals to interview.

While we are discussing our research plan or legal strategy for our clients' cases, we can create a list of documents that we would need to obtain and review to further help analyze our clients' problems. We can discuss with our clients what documents we expect them to provide to us and what documents that we can locate ourselves. Likewise, we can use this portion of the interview to let our clients know of other individuals that we may want to speak to in order to get a better picture of our clients'problems. We can seek clarification from our clients on any contact information for these individuals during this portion of the interview.

F. Closing the Interview

When we begin to conclude our interview, we want to thank our clients for taking thetime to speak with us. We should remind our clients of what the next steps will be inour representation of them. For example, we may let our clients know that we are going to conduct some research on their case and report to them in a letter. Likewise, we want to be clear with our clients as to what we can expect them to do in the meantime.If our clients need to get a specific document to us, we can remind them what document.They need to provide and when we can expect to receive the document. Finally, we can let our clients know of our availability for further conversations or questions.

It is not necessary that we get everything that we wanted to get in just oneinterview. With the rapport that we worked on building during the interview, weshould feel comfortable reaching out to the clients if we need additional informationfrom them or further clarification on some facts. Therefore, we should not feelpressured to continue the interview beyond the time that we have allotted for theinterview.

III. Applying Basic Counseling Skills to Conduct an Effective Client Interview

A client's level of education, sophistication, or familiarity with attorneys may determine what counseling techniques may be most useful to assist us in eliciting the information that we need to best serve our clients.

For example, we may represent a General Counsel who is educated and familiar withlawsuits or legal transactions. General Counsels understand legal analysis andfrequently work with other attorneys to identify the risks and benefits associated with alawsuit or legal transaction. Indeed, the very purpose for a General Counsel position isto help serve a company's legal department. For these particularly sophisticated clients,the problems that they present to us may not be that important or stressful to them. Assuch, the counseling techniques that we utilize during interviews with sophisticatedclients may not be as important to the overall effectiveness of the interview.

Nevertheless, for many other clients - particularly those clients who have never met orworked with an attorney - this one legal problem that they are facing may be the mostimportant and stressful part of their lives. However small their legal problems mayseem to us, these clients may carry their problems like a huge burden on their, shoulders. They may be overcome with worry, and they may fear speaking to anattorney. These anxieties may create roadblocks to the requisite information that weneed to best represent our clients.

We can apply some basic counseling skills to help acquire the information that we need v to help our clients. Some of these skills include active listening, summarization, reflection, and empathy.

1. Active Listening

Clients appreciate when we are actively engaged in their interviews. When we are actively listening, we allow our clients to tell their narratives. We patiently listen to the 8 facts that help us identify the "who", "what," "when", and "where" of our clients' problems. We also listen for the clients' goals, values, and expectations. Finally, we listen for any emotional context associated with the clients' narratives.
However, active listening can be quite difficult. It is hard to remove the thoughts and feelings that we have related to our daily lives and be genuinely present during our client interviews. It can be equally challenging to eliminate any personal judgment and biases that we may have about our clients or their problems, and simply attend to the legal

issues that are troubling them. Yet, we should strive to focus on our clients when we interview them so that they feel comfortable telling us their complete story.

2. Summarize the Client's Story

After we have allowed the clients to tell their stories, it is important that we summarize what we heard so that we get accurate information. Summarizing the clients' stories can further help build rapport by showing that we have been paying attention to our clients while they described their problems and reasons for seeking our assistance.

When we summarize the clients' stories, we transition from open-ended questions to more close-ended questions. The close-ended questions help us clarify any specific facts or concerns that may seem unclear to us. The close-ended questions can also help us hone in on any legal issues that may seem particularly relevant to the clients' stories. Finally, the close-ended questions can help us better identify our clients' goals and expectations with respect to our representation of them.

3. Reflect on any Emotional Context Attached to the Client's Story

Summarizing the clients' stories helps build rapport by showing that we are paying attention to our clients. We can further build rapport by reflecting on any emotional cues that may be attached to the clients' stories.

Reflection includes identifying the feelings and values that our clients may express when they describe their problems. Another useful tool that we can implement after reflection is silence. After we reflect on our clients' emotions or values, we can maintain eye contact and allow the clients to expand on our reflection. Often, our clients will fill the silence with further elaboration on their problems. They may also begin to identify potential solutions to their problems.

4. Empathy

Part of reflection includes our identification of our clients' feelings. Empathy includes our understanding of our clients' feelings.

Empathy involves us trying to understand what our clients are experiencing. We can better understand what our clients are going through when we try to put ourselves in our clients' shoes. If we are better able to understand what our clients are experiencing, then we can better identify and understand how potential legal or non-legal solutions can impact our clients' lives.

III. Conclusion

We can better serve our clients when we establish the trust, comfort, and communication that accompany a strong professional relationship. Effective client interviewing and counseling can help facilitate the development of a strong professional relationship with our clients.

Empathy does not mean sympathy. We do not need to feel sorry for our clients to help understand what our clients are experiencing. Likewise, we do not need to feel bad for our clients in order to still be supportive.

5. LEGAL REASONING ANDSKILLS OF ARGUMENTS

1.	Logic and Scope a) Meaning of Logic and its Nature b) Some Major Sources of Knowledge- a priori, evidence, memory, observation, perception, reasoning and testimony c) Structure of Argument-Statements/Premises and Conclusion d) Methods of Reasoning- Deductive, Inductive and Reasoning by analogy e) Fact and Opinion f) Truth and Validity
2.	Syllogism. a) Meaning of Syllogism b) Rules of Syllogism c) Types of Syllogism-Categorical, Conditional and Disjunctive
3.	Fallacy a) Meaning and Reasons of Fallacy b) Types of Fallacies-Faulty Cause, Sweeping Generalization, Faulty Analogy, Anecdotal Fallacy, Bifurcation (False Dilemma), Equivocation, Tautology, Appeal to Popular Opinion and Association Fallacy
4.	Application of Reasoning to Law - Facts of a Case and provisions /Case Laws(Refer to DahyabhaiChhaganbhaiThakker v. State ofGujarat, AIR 1964 SC 1563 for legal reasoning

Logic and its Scope

a) **Meaning of Logic and its Nature**

The word 'logic' is derived from the Greek word 'logos' which means thought. Hence, etymologically logic is the science of thought or the science that investigates the process of thinking. Thinking is the mental act by means of which we acquire knowledge. Logic is a science because it is the systematic study of all reasoning processes. It is therefore the systematic study of the operations of human mind in its search for truth.

In spite of the differences in the definitions given by different logicians, there is clear agreement about its subject matter namely the relationship between reasoning and truth.

Let us examine the definition given by Creighton for a comprehensive understanding of the nature and subject matter of logic. According to him, Logic is the science, which deals with the operations of human mind in its search for truth. This definition states three facts about logic. It is (i) a science, (ii) concerned with the operations of the human mind and (iii) concerned with the search for truth.

i. Logic is a science as it is a systematic and organized body of knowledge about aparticular part of the universe namely human thought.
ii. Logic is concerned with aspecificpowerofhumanmindnamely thinking/reasoning. Here 'thought' refers to both the processes and the products of thinking.
iii. Creighton's phrase 'search for truth' indicates that truth is the goal or aim oflogic. Truth may be either formal or material. Formal truth means agreement ofthoughts among themselves. It consists in self-consistency of ideas among.Themselves i.e., freedom of thought from contradiction. E.g., 'Circular Square' is acontradiction in terms. It is formally false because it is self-contradictory.However, a 'golden mountain' though not materially real is formally true becausethe two ideas 'golden and 'mountain' are not contradictory to each other.

Copy and Cohen define the function of logic as 'the study of the methods and principles used to distinguish correct from incorrect reasoning'. This definition highlights the precise function of logic. It provides the necessary rules and methods for evaluating the truth and falsity of judgments. Scientific study in any field is based on correct reasoning and hence logic is considered as the basic science of sciences.

The scope of logic as the science of sciences is implied in these definitions. Its rules and principles are the fingerpost to truth in any area of study- religion, philosophy or sciences. Yet, logic is not a positive science like biology or sociology, it is precisely a normative and regulative science. A positive science describes 'what is given' whereas a normative science prescribes 'what ought to be'. Thus, logic is defined as the normativestudy of human reasoning that provides the norms / standards / ideals of correct thinking. Logic is a regulative science as its main concern is to fix the precise rules and norms of evaluating correct judgments and arguments.

Thus, it is crucial to scientific investigation and testing of hypotheses. There has been much dispute on the question - Is logic a science or an

art? Critics differ in their opinion as to whether logic is a science or an art.

Logicians like Mansell and Thompson accept logic only as a science while Aldrich and others consider logic only as an art. Mill and Whitely recognize logic as both a science and an art we have already seen that it is basically the science of reasoning. It is also true that a proper study of logic will improve our reasoning skill and the ability to detect the errors and lapses in judgments and arguments. Hence, learning logic certainly involves training in making and analyzing arguments. It is therefore an art also. Logic is an art because it is a practical science that guides us in the 'search for truth'.There is no doubt about the value of logic in the fields of law and crime investigation, judges and lawyers are always keen on the logical coherence of arguments in law courts.

Detectives and police officers apply the tools of logic to discover the loopholes in crime investigation. A careful study of logic guards us against the common errors in reasoning such as hasty generalization and ambiguity. Thus, the study of logic guarantees training in detecting fallacies in judgments and arguments. That is why we consider logic not only as the science of reasoning but also as the art of argumentation. Logic is the reliable guide in our search for truth because it recognizes both the material and formal aspects of truth. Hence, it is divided into formal logic and material logic. The portion of logic concerned with formal truth is known as Deductive logic or Deduction and that which is concerned with material truth is known as Induction or Inductive Logic. The scope of logic in the search for truth is therefore all-inclusive.

b) Some Major Sources of Knowledge- a priori, evidence, memory, Observation, perception, reasoning and testimony

c) **Structure of Argument-Statements/Premises and Conclusion:**

Basically, argument is a claim defended with reasons. It is composed of a group of statements with one or more statements (premises] supporting another statement (conclusion). A statement is a sentence declaring something that can be true or false. In Critical Thinking, argument is an act of presenting reasons to support individual's position or point of view. It is not quarrel or dispute. Or simply, as Bassham's definition of an argument: A claim defended with reasons.
- Non-arguments are descriptions, explanations & summaries, command, etc.

The **Main components in argument are (a) Premises, (b) Conclusion**

-A simpleargument must have a conclusion and at least two premises.

-Premises or propositions are statements that directly support the conclusion.
- Conclusion is what an author or an individual wants me to believe, accept or do.

Implicit conclusion & implicit premise;

- An implicit conclusion is when the conclusion is not stated outright and the arguer assumes that you will know it. -An implicit premise is when the premise is not stated outright and the arguer assumes that you will know it

Roles of questions as conclusion and premise, interrogative and rhetorical questions:

- This is the part I interested the most in this chapter because being able to put questions inacertain ways,gives usadvantage andskill.

-When giving interrogative questions we want to find some information. For instance: Q)who is your favorite lecturer? A) Mr. Muhammad Nizam.

- But when we give rhetorical questions we are trying to encourage someone to agree or encourage them to act in same way. For example: My friend, our group assignment is due this week. I have not received your part. Your are going to send me by tomorrow before the deadline, don't you?

- Lastly, Another interesting form of question is leading questions which is used when trying to guide someone's answer in a certain direction or trying to get them to say the things you want. This tactic widely used by lawyers. For instance: Instead of asking a witness on the stand: "Where were you on the night of September 5th, 2012?" The questioner would say: "You were driving to Kuala Lumpur on the night of September 5th, weren't you?"

An example of an argument and its analysis:

"Bilingualism and multilingualism confer many benefits. Speakers of more than onelanguage have better understanding of how languages are structured because theycan compere across two different systems. However, people who speak only onelanguage lack this essential point of reference. In many cases, a second languagecan help people to have better understanding and appreciation of their firstlanguage." (Taken from an Article in The Star news magazine).

-This is an example of argument and its conclusion is in the first sentence: Bilingualism and multilingualism confer many benefits. The premises given are: 1) that speakers of more than one language have better understanding ofhow languages are structured; 2) a second language can help people to have betterunderstanding and appreciation of their first language.

d) Methods of Reasoning- Deductive. Inductive andReasoning by analogy;

Reasoning is the process of using existing knowledge to draw conclusions, make predictions, or construct explanations. Three methods of reasoning deductive, inductive, and adductive approaches.

a. Deductive reasoning: conclusion guaranteed:

Deductive reasoning starts with the assertion of a general rule and proceeds from there to a guaranteed specific conclusion. Deductive reasoning moves from the general rule to the specific application: In deductive reasoning, if the original assertions are true, then the conclusion must also be true. For example, math is deductive:

Ifx = 4
Andify = l
Then2x+y = 9

In this example, it is a logical necessity that 2x + y equals 9; 2x + y must equal 9. As a matter of fact, formal, symbolic logic uses a language that looks rather like the math equality above, complete with its own operators and syntax. But a deductive syllogism (think of it as a plain-English version of a math equality) can beexpressed in ordinary language:

If entropy (disorder) in a system will increase unless energy is expended, And if my living room is a system,Then disorder will increase in my living room unless I clean it In the syllogism above, the first two

statements, the propositions or premises, lead logically to the third statement, the conclusion.

Here is another example:

A medical technology ought to be funded if it has been used successfully to treat patients. Adult stem cells are being used to treat patients successfully in more than sixty-five new therapies. Adult stem cell research and technology should be funded. A conclusion is sound (true) or unsound (false), depending on the truth of the original premises (for any premise may be true or false). At the same time, independent of the truth or falsity of the premises, the deductive inference itself (the process of "connecting the dots" from premise to conclusion) is either valid or invalid. The inferential process can be valid even if the premise is false:

There is no such thing as drought in the West. California is in the West. California need never make plans to deal with a drought

In the example above, though the inferential process itself is valid, the conclusion is false because the premise, There is no such thing as drought in the West, is false. A syllogism yields a false conclusion if either of its propositions is false. A syllogism like this is particularly insidious because it looks so very logical-it is, in fact, logical. But whether in error or malice, if either of the propositions above is wrong, then a policy decision based upon it (California need never make plans to deal with a drought) probably would fail to serve the public interest.

Assuming the propositions are sound, the rather stern logic of deductive reasoning can give you absolutely certain conclusions. However, deductive reasoning cannot really increase human knowledge (it is nonampliative) because the conclusions yielded by deductive reasoning are tautologies-statements that are contained within the premises and virtually self-evident. Therefore, while with deductive reasoning we can make observations and expand implications, we cannot make predictions about future or otherwise non-observed phenomena.

b. Inductive reasoning: conclusion merely likely:

Inductive reasoning begins with observations that are specific and limited in scope, and proceeds to a generalized conclusion that is likely, but not certain, in light of accumulated evidence. You could say that inductive reasoning moves from the specific to the general. Much scientific research is carried out by the inductive method: gathering evidence, seeking patterns, and forming a hypothesis or theory to explain what is seen.

Conclusions reached by the inductive method are not logical necessities; no amount of inductive evidence guarantees the conclusion. This is because there is no way to know that all the possible evidence has been gathered, and that there exists no further bit ofunobserved evidence that might invalidate my hypothesis. Thus, while the newspapers I might report the conclusions of scientific research as absolutes, scientific literature itself uses more cautious language, the language of inductively reached, probable conclusions:

What we have seen is the ability of these cells to feed the blood vessels of tumors and to heal the blood vessels surrounding wounds. The findings suggest that these adult stem cells may be an ideal source of cells for clinical therapy. For example, we can envision the use of these stem cells for therapies against cancer tumors [...].1

Because inductive conclusions are not logical necessities, inductive arguments are not simply true. Rather, they are cogent: that is, the evidence seems complete, relevant, and generally convincing, and the conclusion is therefore probably true. Nor are inductive arguments simply false; rather, they are not cogent.

It is an important difference from deductive reasoning that, while inductive reasoning cannot yield an absolutely certain conclusion, it can actually increase human knowledge (it is implicative). It can make predictions about future events or as-yet unobserved phenomena.

For example, Albert Einstein observed the movement of a pocket compass when he was five years old and became fascinated with the idea that something invisible in the space around the compass needle was causing it to move. This observation, combined with additional observations (of moving trains, for example) and the results of logical and mathematical tools (deduction), resulted in a rule that fit his observations and could predict events that were as yet unobserved.

c. Adductive reasoning: taking your best shot:

Adductive reasoning typically begins with an incomplete set of observations and proceeds to the likeliest possible explanation for the set. Adductive reasoning yields the kind of daily decision-making that does its best with the information at hand, which often is incomplete.
A medical diagnosis is an application of adductive reasoning: given this set of symptoms, what is the diagnosis that would best explain most of them? Likewise, when jurors hear evidence in a criminal case, they must consider whether the prosecution or the defense has the best explanation to cover all the points of evidence. While there may be no certainty about their verdict, since there may exist additional evidence that was not

admitted in the case, they make their best guess based on what they know.

While cogent inductive reasoning requires that the evidence that might shed light on the subject be fairly complete, whether positive or negative, adductive reasoning is characterized by lack of completeness, either in the evidence, or in the.Explanation, or both. A patient may be unconscious or fail to report every symptom, for example,resulting in incomplete evidence, or a doctor may arrive at a diagnosis that fails to explain several of the symptoms. Still, he must reach the best diagnosis he can.

The adductive process can be creative, intuitive,and evenrevolutionary. Einstein's work, for example, was not just inductive and deductive, but involved a creative leap of imagination and visualization that scarcely seemed warranted by the mere observation of moving trains and falling elevators. In fact, so much of Einstein's work was done as a"thought experiment" (for he never experimentally dropped elevators), that some of his peers discredited it as too fanciful. Nevertheless, he appears to have been right-until now his remarkable conclusions about space-time continue to be verified experientially.

e)Fact and Opinion:

A fact is a statement that can be proven true or false. An opinion is an expression of a person's feelings that cannot be proven. Opinions can be based on facts or emotions and sometimes they are meant to deliberately mislead others. Therefore, it is important to be aware of the author's purpose and choice of language. Sometimes, the author lets the facts speak for themselves.

The following is an example of a fact;

With fewer cars on the road, there would be less air pollution and traffic noise; therefore, the use of mass transportation should be encouraged. Sometimes the author may use descriptive language to appeal to your emotions and sway your thinking.

Thefollowing is an example of an opinion:

Do you like looking at a smoggy view from a congested highway? How do you feel about fighting road hugs and bumper to bumper traffic every day? Mass transportation is the solution to all these problems.

Emotional language is neither right nor wrong, but the way in which it.is used can be positive or negative; it is up to you to make reasonable judgment about the material you are reading and to draw your own conclusion. Therefore, when you read, it is important to judge facts and opinions carefully in order to come to the right conclusion. Ask yourself, "are the facts reliable?" or "are the opinions based on the facts?" Once you answer these questions, you may be on the right track for finding and sticking to the facts; you be the judge.

f) Truth and Validity:

Truth and validity are two different notions. Truth is predicated of propositions whereas validity is predicated of arguments. Propositions are either true or false.

Deductive arguments are either valid or invalid. We have noted earlier that a deductive argument claims to provide conclusive proof for its conclusion.

A deductive argument is valid if and only if the premises provide conclusive proof for its conclusion. This notion of validity of deductive argument can also be expressed ineither of the following two ways.

i. If the premises of a valid argument are all true, then its conclusion must also be true.
ii. It is impossible for the conclusion of a valid argument to be false while its premises are true.

Any deductive argument that is not valid is called invalid. So, a deductive argument is invalid if its preemies are all true but the conclusion is false. Note that in some cases, even if the premises and the conclusion are all true yet the argument may be invalid. In all cases invalid arguments some of our rules of inference are violated.

The above remark on deductive validity shows the connection between validity of an argument and the truth or falsity of its premises and conclusion. But the connection is r, not a simple one. Of the eight possible combinations of truth or falsity of premises and the conclusion and validity or invalidity of arguments, only one is completely ruled out.

The only thing that cannot happen is that the premises are all true, the conclusion is false and the argument is deductively valid.

Given below are the other seven combinations of true and false premises andconclusion with example;

(i) There are valid arguments whose premises as well as the conclusions are all true. Example:
All men an mortal.
All kings are men.
Therefore, all kings are mortal.

(ii) There are valid arguments whose premises as well as the conclusions are all false. Example:
All cats are six-legged.
All dogs are cats.
Therefore, all dogs are six-legged,

(iii) There are valid arguments where the premises are all false but the conclusion istrue.
Example:
All fishes are mammals.
All whales are fishes.
Therefore, all whales are mammals.

(iv) An argument may have true premises and a true conclusion and nevertheless the argument may be invalid.
Example:
All men an mortal.
All kings are mortal.
Therefore, all kings are men.

(V) There are invalid arguments whose premises are false but the conclusion is true.
Example:
All mammals have wings.
All rabbits have wings.
Therefore, all rabbits are mammals.

(vi) There are invalid arguments in which premises and conclusion are all false.
Example:
All cats are biped,
All dogs are biped.
Therefore, all dogs are cats

(vii) Lastly, an argument in which the premises are true and the conclusion is false willbe invalid.
Example:
All Telugus are Indians.
Nehru is not a Tamil.

Therefore, Nehru is not an Indian,
We can summarize our findings in the following tabular way. Premise Conclusion Validity of the Argument

T	T	Valid
		Invalid
T	F	XXX
		Invalid
F	T	Valid
		Invalid
F	F	Valid
		Invalid

The above examples show that invalid arguments allow for all possible combinations true or false premises and true or false conclusion. We cited examples of valid arguments with false conclusion as well as invalid arguments with true conclusions. Thus, it can be noticed that the truth or falsity of the conclusion does not by itself determine the validity or invalidity of the argument. So also the validity of an argument does not by itself guarantee the truth of its conclusion.

We also noticed that valid arguments may have only three out of the four possible truth contributions. A valid argument cannot have true premises and a false conclusion. In other words if an argument is valid and its premises are true, then we can be sure that the conclusion is true.

Syllogism

a)Meaning of Syllogism:

Syllogism is a form of deductive inference, in which the conclusion is drawn from two premises, taken jointly. It is a form of deductive inference and therefore in it, the conclusion cannot be more general than the premises.

It is a mediate form of inference, the conclusion being drawn from two premises and not from one premises only as in the case of Immediate Inference. For example:

All men are mortal.
All kings are men.
All kings are mortal.

A syllogism, therefore, presents the following characteristics, which distinguish it from other kinds of inference:

(a) Firstly, the conclusion of syllogism follows from the two premises Taken jointly, and not from any one of them, by itself. The conclusion is not merely the sum of the two premises but follows from them taken together, as a necessary consequence. In the example given above, the conclusion 'All kings are mortal' is drawn not from any of the two premises singly, but it follows from them conjointly.

(b) Secondly, the conclusion of a syllogism cannot be more general than the premises. The syllogism is a form of deductive inference, and in no form of deductive inference, can the conclusion be more general than the given premises.

In the example given above the conclusion "All kings- are mortal" is obviously less general than the premises "All men are mortal"— which is applicable to a much larger number of individuals.

(c) Thirdly, the conclusion is true, provided the given propositions are true.In a syllogism, as in other forms of deductive inference we are not concerned with the question as to whether the premises, i.e., the given propositions are, as a matter of fact, true or false. In deductive forms of inference, the truth of the premises is taken for granted and hence, it is clear that the truth of the conclusion depends on the truth of the premises, which are presumed to be true.

b) Rules of Syllogism:

There are many ways in which a syllogism may fail to establish its conclusion. Just as travel is facilitated by the mapping of highways and the labeling of otherwise tempting roads as 'dead ends', so cogency of argument is made more easily attainable by setting forth certain rules that enable the reasoned to avoid fallacies. Any given standard-form syllogism can be evaluated by observing whether the rules are violated or not.

Rule 1: Every syllogism must have three and only three terms.
It there be less than three terms, we cannot get a mediate form of inference, but we mayat best construct an immediate inference, and not a syllogism. When there are morethan three terms in a statement it is either not an inference at all or it is a train ofreasoning.

Three terms must be involved in every valid categorical syllogism -- no more and no less. Any categorical syllogism that contains more than three terms is invalid and is said to commit the fallacy of four terms.
All crows are black.

All cranes are white
;-No cranes are crows.

Rule 2 : The middle term must be distributed in at least one premises.

In a standard-form categorical syllogism,
All Russians were revolutionists.
All anarchists were revolutionists.

All anarchists were Russians.
themiddle term, 'revolutionists' is not distributed in either premises, and the syllogism violates Rule 2. Any syllogism that violates Rule 2 is said to commit the fallacy of the undistributed middle. It should be clear by the following considerations that any syllogism that violates this rule is invalid. The conclusion of any syllogism asserts a connection between two terms.
The premises justify asserting such a connection only if they assert that each of two terms is connected with a third term in such a way that the first two are appropriately connected with each other through or by means of the third. For the two terms of the conclusion really to be connected through the third, at least one of them must be related to the whole of the class designated by the third or middle term. Otherwise, each may be connected with a different part of that class, and the two are not necessarily connected with each other at all.

Rule 3; A term which is distributed in the conclusion, must be Distributed in the premises.

A valid argument is one whose premises logically imply or entail its conclusion. The conclusion of a valid argument cannot go beyond or assert any more than is [implicitly) contained in the premises. If the conclusion does illegitimately 'go beyond' what is asserted by the premises, the argument is invalid. It is an 'illicit process' for the conclusion to say more about its terms than the premisesdo.

A proposition that distributes one of its terms says more about the class designated by that term than it would if the term were undistributed by it. To refer to all members of a class is to say more about it than is said, when only some of its members are referred to. Therefore when the conclusion of a syllogism distributes a term that was undistributed in the premises, it says more about it than the premises warrant, and the syllogism is invalid. Such an illicit process can occur in the case of either the major or the minor
term.

When a syllogism contains its major term undistributed in the major premises but distributed in the conclusion, the argument is said to commit the fallacy of illicit process of the major term or the illicit major.

When a syllogism contains its minor term undistributed in its minor premises but distributed in its conclusion, the argument commits the fallacy of illicit process of the minor term or the illicit minor.

Rule 4: From two negative premises no conclusion can be drawn.

Any negative proposition [E or 0) denies class inclusion, asserting that all or some of one class is excluded from the whole of the other. Where S, P and M are the minor, major, and middle terms, respectively, two negative premises can assert only that S is wholly or partially excluded from all or part of M and that P is wholly or partially excluded from all or part of M.

But these conditions may very well obtain no matter how S and P are related, whether by inclusion or exclusion, partial or complete. Therefore from two negative premises, no relationship whatever between S and P can validly be inferred. Any syllogism that breaks Rule 4 is said to commit the fallacy of exclusive premises.
No beasts are immortal.
No cats are immortal.
No cats are beasts.

Rule 5: If one of the premises be negative the conclusion must be negative. An affirmative conclusion asserts that one class is either wholly or partly contained in a second. This can be justified only by premises that assert the existence of a third class that contains the first and is itself contained in the second. In other words, to entail an affirmative conclusion, both premises must assert inclusion. But class inclusion can be stated only by affirmative propositions. So an affirmative conclusion logically follows only from two affirmative premises. Hence if either premises is negative, the conclusion cannot be affirmative but must be negative also. Any syllogism that breaks Rule 5 may be said to commit the fallacy of drawing an affirmative conclusion from a negative premises.

Rule 6: If one premise be particular the conclusion must be particular.

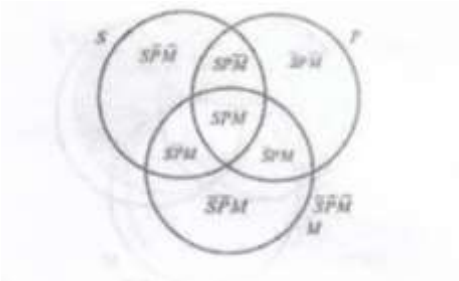
To break this rule is to go from premises having no existential import to a conclusionthat does. A particular proposition asserts the existence of objects of a specified kind, soto infer it from two universal premises that do not assert the existence of anything atall is clearly to go beyond what is warranted by the premises. For example,
All household pets are domestic animals.

No unicorns are domestic animals.
Therefore some unicorns are not household pets.
This syllogism is invalid because its conclusion asserts that there are unicorns (a falseproposition), whereas its premises do not assert the existence of unicorns (or ofanything) at all. Being universal propositions, they are without existential import. Theconclusion would follow validity if to the two universal premises were added theadditional premise 'There are unicorns'. Any syllogism that violates Rule 6 may be saidto commit the existential fallacy.

Venn diagram Technique for Testing Syllogism:

To test a categorical syllogism by the method of Venn diagrams it is necessary to represent both its premises in one diagram. Here we are required to draw three overlapping circles, for the two premises of a standard-form syllogism contain three different terms, minor term, major term, and middle term which we abbreviate as S, P, and M, respectively. We first draw two circles just as for the diagramming of a single proposition, and then we draw a third circle beneath, overlapping both of the first two. We label the three circles S, P, and M, in that order. Just as one circle labelled S diagrammed both the class S and class Sand as two overlapping circles labeled S and P diagrammed four classes (SP, SP, SP and SP), so three overlapping circles labeled S, P, and M diagram eight

classes: SPM, SPM, SPM, SPM, SPM, SPM, SPM, and SPM. These are represented by the eight parts into which the three circles divide the plane, as shown in the following figure.

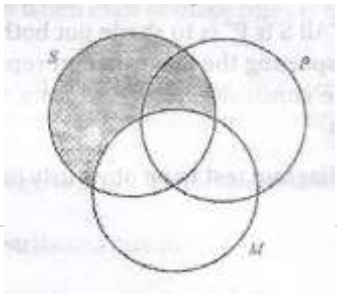


This can be interpreted in terms of the various different classes determined by the class of all Swedes (S), the class of all peasants (P), and the class of all musicians (M). SPM is the product of these three classes, which is the class of all Swedish peasant musicians. SPM is the product of the first two and the complement of the third, which is the class of all Swedish peasants who are not musicians.

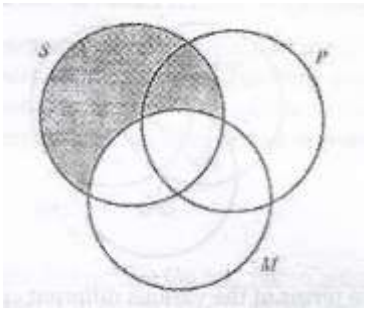
SPM is the product of the first and third and the complement of the second: the class of all Swedish musicians who are not peasants. SPM is the product of the first and the complement of the others: the class of all Swedes who are neither peasants nor musicians, Next, SPM is the product of the second and third classes with the complement of the first: the class of all peasant musicians who are not Swedes.

SPM is the product of the second class with the complements of the other two: the class of all peasants who are neither Swedes nor musicians. SPM is the product of the third class and the complements of the first two: the class of all musicians who are neither Swedes nor peasants. Finally, SPM is the product of the complements of the three original classes: the class of all things that are neither Swedes nor peasants nor musicians.

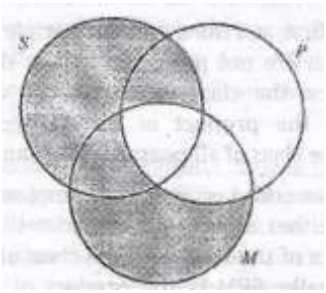
If we focus our attention on just the two circles labelled P and M, it is clear that by shading out or inserting an x we can diagram any standard-form categorical proposition whose two terms are P and M, regardless of which is the subject term and which the predicate. Thus, to diagram the proposition "All MI's P" (MP = 0), we shade out all of A/that is not contained in (or overlapped by) P. This area, it is seen, includes both the portions labelled SPM and SPM. Then the diagram becomes:



And if we focus our attention on just the two circles S and M, by shading out or inserting an x we can diagram any standard-form categorical proposition whose terms are S and M, regardless of the order in which they appear in it. To diagram the proposition "All S is M" (SM = 0), we shade out all of S that is not contained in (or overlapped by) M. This area, it is seen, includes both the portions labelled SPM and SPM. The diagram for this proposition will appear as:



Now the advantage of having three circles overlapping is that it allows us to diagram two propositions together—on condition, of course, that only three different terms occur in them. Thus diagramming both "All M is P" and "All S is M" at the same time gives us this figure:



This is the diagram for both premises of the syllogism AAA — 1:

All M is P.

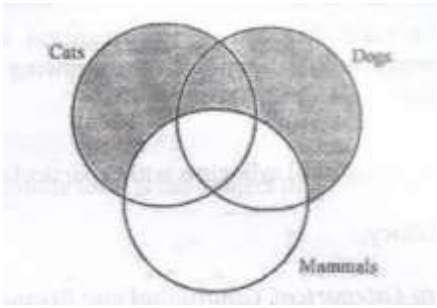
All S is M

All Sis P.

Now this syllogism is valid if and only if the two premises imply or entail the conclusion, that is, if together they say what is said by the conclusion. Consequently, diagramming the premises of a valid argument should suffice to diagram its conclusion also, with no further marking of the circles needed.

To diagram the conclusion "All S is P" is to shade out both the portion labelled SPM and the portion labeled SPM. Inspecting the diagram that represents the two premises, we see that it does diagram the conclusion also. And from this fact we can conclude that AAA — 1 is a valid syllogism.

Let us now apply the Venn diagram test to an obviously invalid syllogism:
All dogs are mammals.
All cats are mammals.
Therefore all cats are dogs.
Diagramming both premises we find this figure



In this diagram, where S designates the class of all cats, P the class of all dogs, and M the class of all mammals, the portions SPM, SPM, and SPM have been shaded out. But the conclusion has not been diagrammed, because the part SPM has been left unshaded, and to diagram the conclusion both SPM and SPM must be shaded.

Thus we see that diagramming both the premises of a syllogism of form AAA—2 does not suffice to diagram its conclusion, which proves that the conclusion says something more than is said by the premises, which shows that the premises do not imply the conclusion. But an argument whose premises do not imply its conclusion is invalid, and so our diagram proves the given syllogism to be invalid.

The general technique of using Venn Diagrams to test the validity of any standard-form syllogism may be summarily described as follows. First, label the circles of a three-circle Venn diagram with the syllogism's three terms.,

Next, diagram both premises, diagramming the universal one first if there is one universal and one particular, being careful in diagramming a particular proposition to put an x on a line if the premises do not determine on which side of the line it should go. Finally, inspect the diagram to see whether or not the diagram of the premises contains a

diagram of the conclusion: if it does, the syllogism is valid; if it does not, the syllogism is invalid.

Formal Fallacies:

We have already explained the six essential rules for standard-form syllogisms andnamed the fallacy that results when each of these rules is broken.

Rule 1:

A standard-form categorical syllogism must contain exactly three terms, each of whichis used in the same sense throughout the argument. Violation: Fallacy of four terms.

Rule 2 :

In a valid standard-form categorical syllogism, the middle term must be distributed in at least one premise.
Violation: Fallacy of the undistributed middle.

Rule 3:

In a valid standard-form categorical syllogism, if either term is distributed in the conclusion, then it must be distributed in the premises.
Violation: Fallacy of the illicit major, or fallacy of the illicit minor.

Rule 4:

No standard-form categorical syllogism having two negative premises is valid. Violation: Fallacy of exclusive premises.

Rule 5:

If either premise of a valid standard- form categorical syllogism is negative, the conclusion must be negative. Violation: Fallacy of drawing an affirmative conclusion from a negative premise.

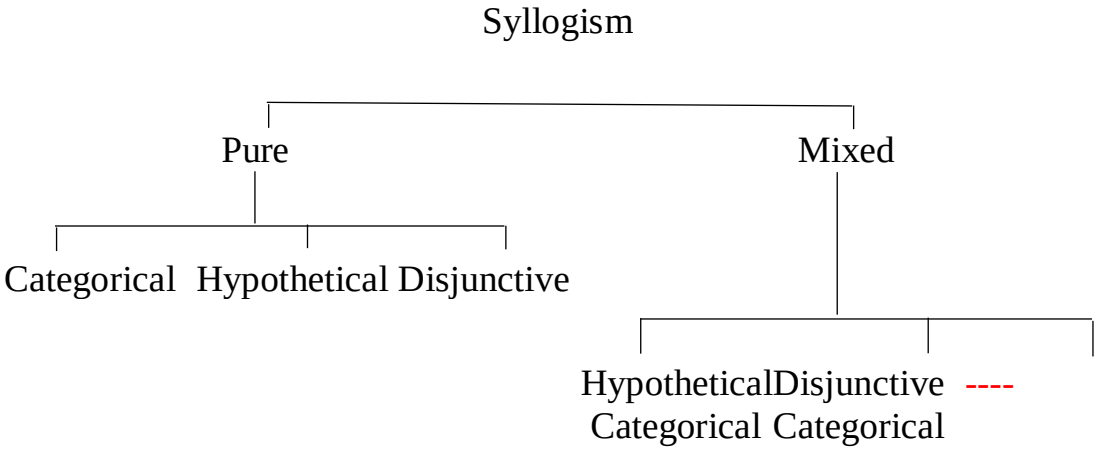
Rule 6:

No valid standard-form categorical syllogism with a particular conclusion can have two universal premises.
Violation: Existential fallacy.

c) **Types of Syllogism-Categorical, Conditional and Disjunctive**

Syllogisms have been classified into Pure and Mixed. Pure syllogisms are of three kinds --- Categorical, Hypothetical and Disjunctive. Mixed syllogisms are of three kinds --- Hypothetical - Categorical, Disjunctive - Categorical and Dilemma.

The following Table shows the different kinds of syllogism:



In a **pure syllogism**, all the constituent propositions are of the same relation. If all of them are categorical, the syllogism is pure categorical; if all hypothetical the syllogism is pure hypothetical; and lastly, if all of them are disjunctive, the syllogism is pure disjunctive.

In a **mixed syllogism** the constituent propositions are of different relation. Mixed syllogisms are of three kinds—Hypothetical-Categorical, Disjunctive- Categorical, Dilemma. In Hypothetical-Categorical syllogism, the major premise is hypothetical, the minor is categorical and the conclusion is categorical.

In **Disjunctive-Categorical,** the major premise is disjunctive, the minor is categorical and" the conclusion is categorical. In **Dilemma**, the major premise is a compound hypothetical, the minor premise is disjunctive, and the conclusion is either categorical or disjunctive.

Figures:

Figure is the form of a syllogism as determined by the position of the middle term in thepremises.
There are four possible arrangements of the middle term in the two premises; and,therefore, there are four figures of syllogism.

1. First Figure:

In the first figure, the middle term is the subject in the major premise, and the predicate
is the minor premise; thus
Pure Mixed
P — M
S — M
S — P

2. Second Figure:

In the second figure, the middle term is the predicate in both the premises; thus

Fallacy

a) **Meaning and Reasons of Fallacy**

A **fallacy** is the use of invalid or otherwise faulty reasoning, or "wrong moves" in the construction of an argument. A fallacious argument may be deceptive by appearing to be better than it really is. Some fallacies are committed intentionally to manipulate or persuade by deception, while others are committed unintentionally due to carelessness or ignorance. The soundness of legal arguments depends on the context in which the arguments are made.

Fallacies are commonly divided into "formal" and "informal". A formal fallacy can be expressed neatly in a standard system of logic, such as prepositional logic, while an informal fallacy originates in an error in reasoning other than an improper logical form. Arguments containing informal fallacies may be formally valid, but still fallacious.

A special case is a mathematical fallacy, an intentionally invalid mathematical proof, often with the error subtle and somehow concealed. Mathematical fallacies are typically crafted and exhibited for educational purposes, usually taking the form of spurious proofs of obvious contradictions.

b) Types of Fallacies - Faulty Cause, Sweeping Generalization, Faulty Analogy, Anecdotal Fallacy, Bifurcation (False Dilemma), Equivocation, Tautology, Appeal to Popular Opinion and Association Fallacy

Arguments

Most academic writing tasks require you to make an argument—that is, to present reasons for a particular claim or interpretation you are putting

forward. You may have been told that you need to make your arguments more logical or stronger. And you may have worried that you simply aren't a logical person or wondered what it means for an argument to be strong. Learning to make the best arguments you can is an ongoing process, but it isn't impossible: "Being logical" is something anyone can do, with practice.

Each argument you make is composed of premises (this is a term for statements that express your reasons or evidence) that are arranged in the right way to support your conclusion (the main claim or interpretation you are offering).

You can make your arguments stronger by:

1. using good premises (ones you have good reason to believe are both true and relevant to the issue at hand), ii
2. making sure your premises provide good support for your conclusion (and not some other conclusion, or no conclusion at all),
3. checking that you have addressed the most important or relevant aspects of the issue (that is, that your premises and conclusion focus on what is really important to the issue), and
4. Not making claims that are so strong or sweeping that you can't really supportthem.

You also need to be sure that you present all of your ideas in an orderly fashion that readers can follow. See our handouts on argument and organization for some tips that will improve your arguments.

This handout describes some ways in which arguments often fail to do the things listed above; these failings are called fallacies. If you're having trouble developing your argument, check to see if a fallacy is part of the problem.

It is particularly easy to slip up and commit a fallacy when you have strong feelings about your topic—if a conclusion seems obvious to you, you're more likely to just assume that it is true and to be careless with your evidence. To help you see how people commonly make this mistake, this handout uses a number of controversial political examples—arguments about subjects like abortion, gun control, the death penalty, gay marriage, euthanasia, and pornography. The purpose of this handout, though, is not to argue for any particular position on any of these issues; rather, it is to illustrate weak reasoning, which can happen in pretty much

any kind of argument Please be aware that the claims in these examples are just made-up illustrations—they haven't been researched, and you shouldn't use them as evidence in your own writing.

fallacies

Fallacies are defects that weaken arguments. By learning to look for them in your own and others' writing, you can strengthen your ability to evaluate the arguments you make, read, and hear. It is important to realize two things about fallacies: first, fallacious arguments are very, very common and can be quite persuasive, at least to the casual reader or listener. You can find dozens of examples of fallacious reasoning innewspapers, advertisements, and other sources. Second, it is sometimes hand to
Evaluate whether an argument is fallacious. An argument might be somewhat weak, somewhat strong, or very strong. An argument that has several or parts might have some strong sections and some weak ones. The goal of this handout, then, is not to teach you how to label arguments as fallacious or fallacy-free, but to help you look critically at your own arguments and move them away from the "weak" and toward the "strong" end of the continuum.

For each fallacy listed, there is a definition or explanation, an example, and a tip on how to avoid committing the fallacy in your own arguments.

Hasty generalization

Definition: Making assumptions about a whole group or range of cases based on a sample that is inadequate (usually because it is atypical or too small). Stereotypes about people ("librarians are shy and smart," "wealthy people are snobs," etc.) are a common example of the principle underlying hasty generalization.

Examples: "My roommate said her philosophy class was hard, and the one I'm in is hard, too. All philosophy classes must be hard!" Two people's experiences are, in this case, not enough on which to base a conclusion.

Tip: Ask yourself what kind of "sample" you're using: Are you relying on the opinions or experiences of just a few people, or your own experience in just a few situations? If so, consider whether you need more evidence, or perhaps a less sweeping conclusion. (Notice that in the example, the more modest conclusion "Some philosophy classes are hard for some students" would not be a hasty generalization.)

Missing the point

Definition: The premisesofanargument do support a particular conclusion—but not the conclusion that the arguer actually draws.

Example: "The seriousness of a punishment should match the seriousness of the crime. Right now, the punishment for drunk driving may simply be a fine. But drunk driving is a very serious crime that can kill innocent people. So the death penalty should be the punishment for drunk driving." The argument actually supports several conclusions—"The punishment for drunk driving should be very serious," in particular—but it doesn't support the claim that the death penalty, specifically, is warranted.

Tip: Separate your premises from your conclusion. Looking at the premises, ask yourself what conclusion an objective person would reach after reading them. Looking at your conclusion, ask yourself what kind of evidence would be required to support such a conclusion, and then see if you've actually given that evidence. Missing the point often occurs when a sweeping or extreme conclusion is being drawn, so be especially careful if you know you're claiming something big.

Post hoc (also called false cause)

This fallacy gets its name from the Latin phrase "post hoc, ergo propter hoc," which translates as "after this, therefore because of this."

Definition: Assuming that because B comes after A. A caused B. Of course, sometimes one event really does cause another one that comes later—for example, if I register for a class, and my name later appears on the roll if s true that the first event caused the one that came later. But sometimes two events that seem related in time aren't really related as cause and event. That is, correlation isn't the same thing as causation.

Examples: "President Jones raised taxes, and then the rate of violent crime went up. Jones is responsible for the rise in crime." The increase in taxes might or might not be one factor in the rising crime rates, but the argument hasn't shown us that one caused the other.

Tip: To avoid the post hoc fallacy, the arguer would need to give us some explanation of the process by which the tax increase is supposed to have produced higher crime rates. And that's what you should do to avoid committing this fallacy: If you say that A causes B, you should have something more to say about how A caused B than just that A came first and B came later.

Slippery slope

Definition: The arguer claims that a sort of chain reaction, usually ending in some direconsequence, will take place, but there’s really not enough evidence for thatassumption. The arguer asserts that if we take even one step onto the "slippery slope,"we will end up sliding all the way to the bottom; he or she assumes we can't stoppartway down the hill.

Example: "Animal experimentation reduces our respect for life. If we don't respect life,we are likely to be more and more tolerant of violent acts like war and murder. Soonour society will become a battlefield in which everyone constantly fears for their lives.It will be the end of civilization. To prevent this terrible consequence, we should makeanimal experimentation illegal right now." Since animal experimentation has been legalfor some time and civilization has not yet ended, it seems particularly clear that thischain of events won't necessarily take place. Even if we believe that experimenting onanimals reduces respect for life, and loss of respect for life makes us more tolerant of violence, that may be the spot on the hillside at which things stop—we may not slide all the way down to the end of civilization. And so we have not yet been given sufficient, reason to accept the arguer's conclusion that we must make animal experimentation illegal right now.

Like post hoc, slippery slope can be a tricky fallacy to identify, since sometimes a chain of events really can be predicted to follow from a certain action. Here's an example that doesn't seem fallacious: "If I fail English 101, I won't be able to graduate. If I don't graduate, I probably won't be able to get a good job, and I may very well end up doing temp work or flipping burgers for the next year."

Tip: Check your argument for chains of consequences, where you say "if A, then B, and if B, then C," and so forth. Make sure these chains are reasonable.

Weak analogy

Definition: Many arguments rely on an analogy between two or more objects, ideas, or situations. If the two things that are being compared aren't really alike in the relevant respects, the analogy is a weak one, and the argument that relies on it commits the fallacy of weak analogy.

Example: "Guns are like hammers—they're both tools with metal parts that could be used to kill someone. And yet it would be ridiculous to restrict the purchase of hammers—so restrictions on purchasing guns are equally ridiculous." While guns and boners do share certain features, these features (having metal parts, being tools, and being potentially useful for violence) are not the ones at stake in deciding whether torestrict guns. Rather, we restrict guns because they can easily be used to kill large numbers of people at a distance. This is a feature hammers do not share—it would be hard to kill a crowd with a hammer. Thus, the analogy is weak, and so is the argument based on it.

If you think about it, you can make an analogy of some kind between almost any two things in the world: "My paper is like a mud puddle because they both get bigger when it rains (I work more when I'm stuck inside) and they're both kind of murky." So the mere* fact that you can draw an analogy between two things doesn't prove much, by itself.

Arguments by analogy are often used in discussing abortion—arguers frequently compare fetuses with adult human beings, and then argue that treatment that would violate the rights of an adult human being also violates the rights of fetuses. Whether these arguments are good or not depends on the strength of the analogy: do adult humans and fetuses share the properties that give adult humans rights? If the property that matters is having a human genetic code or the potential for a life full of human experiences, adult humans and fetuses do share that property, so the argument and the analogy are strong; if the property is being self-aware, rational, or able to survive on one's own, adult humans and fetuses don't share it, and the analogy is weak

Tip: Identify what properties are important to the claim you're making, and seewhether the two things you're comparing both share those properties.

Appeal to authority

Definition: Often we add strength to our arguments by referring to respected sources or authorities and explaining their positions on the issues we're discussing. If, however, we try to get readers to agree with us simply by impressing them with a famous name or by appealing to a supposed authority who really isn't much of an expert, we commit the fallacy of appeal to authority.

Example: "We should abolish the death penalty. Many respected people, such as actor Guy Handsome, have publicly stated their opposition to it." While Guy Handsome maybe an authority on matters having to do with acting, there's no particular reason why anyone should be moved by his political opinions—he is probably no more of anauthority on the death penalty than the person writing the paper.

Tip: There are two easy ways to avoid committing appeal to authority: First, make sure that the authorities you cite are experts on the subject you're discussing. Second, rather than just saying "Dr. Authority believes X, so we should believe it, too," try to explain the reasoning or evidence that the authority used to arrive at his or her opinion. That way, your readers have more to go on than a person's reputation. It also helps to choose authorities who are perceived as fairly neutral or reasonable, rather than people who will be perceived as biased.

Ad Populism

Definition: The Latin name of this fallacy means "to the people." There are severalversions of the ad populism fallacy, but in all of them, the arguer takes advantage of thedesire most people have to be liked and to fit in with others and uses that desire to tryto get the audience to accept his or her argument One of the most common versions is the bandwagon fallacy, in which the arguer tries to convince the audience to do or believe something because everyone else (supposedly) does.

Example:"Gay marriages are just immoral. 70% of Americans think so!" While the opinion of most Americans might be relevant in determining what laws we should have, it certainly doesn't determine what is moral or immoral: there was a time where a substantial number of Americans were in favor of segregation, but their opinion was not evidence that segregation was moral. The arguer is trying to get us to agree with the conclusion by appealing to our desire to fit in with other Americans.

Tip: Make sure that you aren't recommending that your readers believe your conclusion because everyone else believes it, all the cool people believe it, and people will like you better if you believe it, and so forth. Keep in mind that the popular opinion is not always the right one.

False dichotomy

Definition: In false dichotomy, the arguer sets up the situation so it looks like there are only two choices. The arguer then eliminates one of the choices, so it seems that we are left with only one option: the one the arguer wanted us to pick in the first place. But often there are really many different options, not just two—and if we thought about them all, we might not be so quick to pick the one the arguer recommends.

Example: "Caldwell Hall is in bad shape. Either we tear it down and put up a new building, or we continue to risk students' safety. Obviously we shouldn't risk anyone's safety, so we must tear the building down." The argument neglects to mention the possibility that we might repair the building or find some way to protect students from the risks in question—for example, if only a few rooms are in bad shape, perhaps we shouldn't hold classes in those rooms.

Tip: Examine your own arguments: if you're saying that we have to choose between just two options, is that really so? Or are there other alternatives you haven't mentioned? If there are other alternatives, don't just ignore them—explain why they, too, should be ruled out. Although there's no formal name for it, assuming that there are only three options,

four options, etc. when really there are more is similar to false dichotomy and should also be avoided.

Begging the question

Definition: A complicated fallacy; it comes in several forms and can be harder to detect than many of the other fallacies we've discussed. Basically, an argument that begs the question asks the reader to simply accept the conclusion without providing real evidence; the argument either relies on a premise that says the same thing as the conclusion (which you might hear referred to as "being circular" or "circular reasoning"), or simply ignores an important (but questionable) assumption that the argument rests on. Sometimes people use the phrase "beg the question" as a sort of general criticism of arguments, to mean that an arguer hasn't given very good reasons for a conclusion, but that's not the meaning we're going to discuss here.

Examples: "Active euthanasia is morally acceptable. It is a decent, ethical ting to help another human being escape suffering through death." Let's lay this out in premise- conclusion form:

Premise: It is a decent, ethical thing to help another human being escape suffering through death.

Conclusion: Active euthanasia is morally acceptable.

If we "translate" the premise, we'll see that the arguer has really just said the same thing twice: "decent, ethical" means pretty much the same thing as "morally acceptable," and "help another human being escape suffering through death" means something pretty similar to "active euthanasia." So the premise basically says, "active euthanasia is morally acceptable," just like the conclusion does. The arguer hasn't yet given us any real reasons why euthanasia is acceptable; instead, she has left us asking "well, really, why do you think active euthanasia is acceptable?" Her argument "begs" (that is, evades) the real question.

Here's a second example of begging the question, in which a dubious premise which is needed to make the argument valid is completely ignored: "Murder is morally wrong. So active euthanasia is morally wrong." The premise that gets left out is "active euthanasia is murder." And that is a debatable premise—again, the argument "begs" or evades the question of whether active euthanasia is murder by simply not stating the premise. The arguer is hoping we'll just focus on the uncontroversial

premise, "Murder is morally wrong," and not notice what is being assumed.

Tip: One way to try to avoid begging the question is to write out your premises and conclusion in a short, outline-like form. See if you notice any gaps, any steps that are required to move from one premise to the next or from the premises to the conclusion. Write down the statements that would fill those gaps. If the statements are controversial and you've just glossed over them, you might be begging the question. Next, check to see whether any of your premises basically says the same thing as the conclusion (but in different words). If so, you're probably begging the question. The moral of the story: you can't just assume or use as uncontroversial evidence the very thing you're trying to prove.

Equivocation:

Definition: Equivocation is sliding between two or more different meanings of a single word or phrase that is important to the argument.

Example: "Giving money to charity is the right thing to do. So charities have a right to our money." The equivocation here is on the word "right": "right" can mean both something that is correct or good (as in "I got the right answers on the test") and something to which someone has a claim (as in "everyone has a right to life"). Sometimes an arguer will deliberately, sneakily equivocate, often on words like "freedom," "justice," "rights," and so forth; other times; the equivocation is a mistake or misunderstanding. Either way, it's important that you use the main terms of your argument consistently.

Tip: Identify the most important words and phrases in your argument and ask yourself whether they could have more than one meaning. If they could, be sure you aren't slipping and sliding between those meanings.

Application of Reasoning to Law - Facts of a Case and provisions / Case Laws (Refer to DahyobhaiChhaganbhaiThakker v. State of Gujarat, AIR 1964 SC 1563 for legal reasoning

Legal reasoning is a method of thought and argument used by lawyers and judges when applying legal rules to specific interactions among legal persons. Legal reasoning in the case of a court's ruling is found in the 'Discussion or Analysis' section of the judicial ruling.

It is here that the court gives reason for its legal ruling, and it helps other courts, lawyers and judges to use and follow the ruling in subsequent proceedings. Therefore, the 'discussion or analysis' section must be well reasoned and written.

Precedent and Analogy

The two central forms of legal reasoning are arguments from precedent and analogy. These are found in many legal systems such as the common law which is found in both England and the United States.

- Precedent is where an earlier decision is applied in a later case because the two cases are same.
- Analogy involves an earlier decision being used in a later case because the latter case is similar to the earlier one.

Precedent and analogy do however present philosophical problems. For instance, when are two cases deemed 'same' so as to apply precedent? When two cases are considered 'similar' to justify analogy? In both situations, why should the decision in the earlier case affect the decision in the latter case?

Inherent within legal reasoning is the acceptance of the law and a leaning towards working within the existing legal framework. It is true to say that there is a bias towards maintaining the existing rules. Nevertheless, the bias does not presume the law as it is to be just, fair or practical and thus immune from change.

Judges have often in the past made use of provisions in the law to avoid applyingprecedent or analogy in instances where such an application would result in unfair orundesirable outcomes.

Elements of Legal Reasoning

Legal reasoning reveals why and how the court, lawyer or judge came to their decisionor argument on the case.

There are core elements that must appear and be addressed in the reasoning:

- The question or the legal issue before the court
- The relevant facts of the case
- The legal rule
- Other considerations that may be brought before the court

As such, there is the burden to address the stated elements clearly and concisely. This may be done using a deductive or analytical reasoning.

Deductive Reasoning

This is a means of drawing out ruling from another judicial opinion, or existing constitution, legislative provision and applying it in another case. The rule statement is mostly broad rather than narrow when using deductive reasoning. This approach is mechanical and is therefore effective only in ideal situations and often unsatisfactory,

The approach faces many challenges among them being:

- Semantic difficulty - due to the various meanings that words hold, it is often impossible to attribute one particular meaning to a specific word and so to be understood by all parties
- There may arise unremunerated circumstances that would demand a different legal treatment
- The occurrence of obstacles preventing the upholding of previous rule statements
- Rules based on ontological principles being insufficient to determine between conflicting interests

Analogical Reasoning

This involves the identification of the similarities and differences of the facts in the precedential and the case to be determined. After the identification, then deciding whether the case to be determined is similar or different from the precedent in the important aspects with regards to the matter being decided. Following the findings, the case precedent may then be followed or distinguished.

It is important to note that there are peculiar situations where both of the above methods will not suffice in determining a case, and the judge may then rule according to personal preference.

Circumstances that may prompt such a treatment include but are not limited to:

- Where the law is obscure: the rules are too fragmentary, imprecise or partial to describe the present case facts .
- Where there are no rules provided

The way in which judges reason their decisions is a vital component of how the law functions. The process of interpreting statutory provisions and applying case law is far more complicated than a simple formula for logical reasoning would suggest. It seems inevitable that factors outside of the logical and legal reasoning process must play a part in judicial decision-making. The amount of uncertainty inherent even in formal logical reasoning processes gives room for the engagement of non-legal factors to contribute to legal judgments: these factors may include morality, economics, politics and social issues. Judgments often come across as highly reasoned arguments, reaching the only inevitable conclusion based on the law through an objective and rigorous analysis of the evidence - statutes, common law, case law, etc. However, this is as much part of the narrative structure and rhetoric of legal argument as it is a reality.

Judicial decisions are often couched in the language of objectivity and at pains to show that conclusions are based on legal rules and logical argument rather than choices and extra-legal factors. However, the courts have to deal with many issues that require inherently political judgments and/or are not covered by the existing law. In these situations, factors such as the choice of precedent, identification of ratio decided, identification of relevant analogies, and even the application of overriding public policyconcerns can reveal the devices used to ensure judgments appear both neutral and purely legal, and thereby free from bias and the influence of non-legal factors.

a. Facts of a Case and provisions/Case Laws:

In order to become an effective lawyer, you need to train your mind, not just to absorb the information, but to dissect, analyses and challenge it. Below are some tried andtested methods that will help you get the most out of the material you are studying.

1. Reading cases
2. Reading statutes
3. Managing large amounts of complex material
4. Indexing as preparation for law exams
5. The MIRAT method for legal problem solving

1. Reading cases

The art of case reading is one of the most significant common-law lawyerly skills.A case on its own is not very informative. The question you should ask yourself is: what a, does this case add to what I already know about the law in this area? The process of case reading is a spiraling process which means that every time you go back and readthe case you find more. Therefore you should never think your brief of a case is final. Doa rough brief before class. After discussion has confirmed, illuminated and/or alteredyour view of it, redo the brief.