

LAW AND LANGUAGE

Legal Language and Legal Reasoning

language *noun*

A1 OPAL W OPAL S

/ˈlæŋgwɪdʒ/

/ˈlæŋgwɪdʒ/

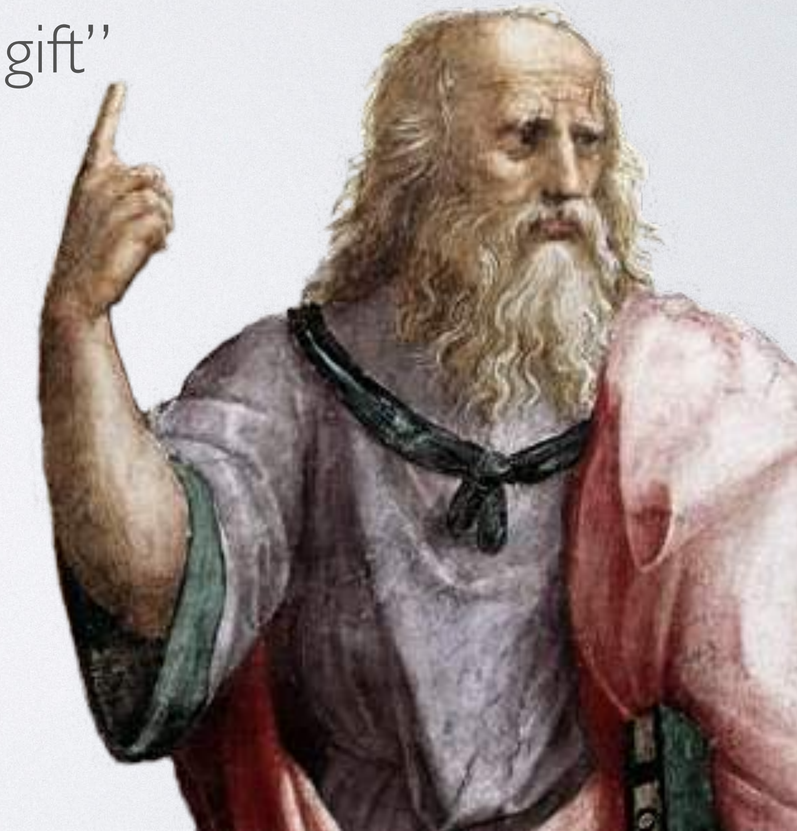
Idioms

of a country

1 ★ A1 [countable] the system of communication in speech and writing that is used by people of a particular country or area

“Human Language is a result of a divine gift”

-Plato





Criticise

Interpret

Study

Analyse

Relate

Explain

Understand

Medium

Language

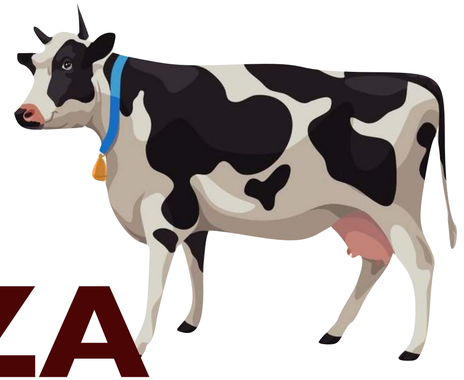
WHAT EXACTLY IS LANGUAGE?

- Speaking and Listening or (Verbal and Non verbal way of communication)
- Communicate meaning
- Language is arbitrary
- A Limited list of sound
- Tenses
- Generative



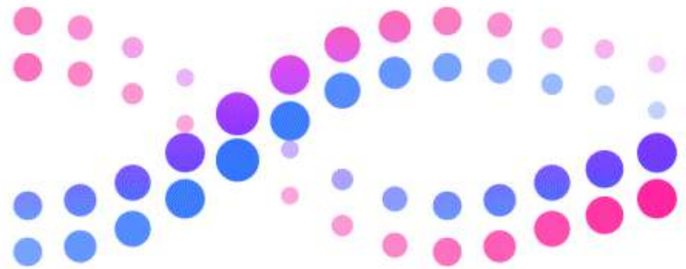


COW
ALMERIZA



BACKGROUND OF THE STUDY OF LANGUAGE

- Speech Sound
- Thoughts and feelings are of external perception, and which could be repeated
- Not merely a medium of communication
- Semiolic study "underlying structure makes the meaning possible"



WHAT IS LAW?

- A system of rules that are created and enforced through social or governmental institutions to regulate conduct

- It basically influences every structure of the society



COMPARATIVE STUDY OF LAW AND LANGUAGE

- The three approaches
  - Metaphysical understanding
  - Social understanding
  - Linguistic understanding

METAPHYSICAL UNDERSTANDING

- Look at this example
  - He left the hostel 5 minutes ago.
  - He left the hostel 5 years ago.
- A meaning a sentence has without a proper explanation.

SIMILARLY LAW IS AN ABSTRACTION OF THE LEGAL SYSTEM

SOCIAL SIGNIFICANCE AND CULTURAL CONSCIOUSNESS

- Etymological and definitional elements
- Language is a system of arbitrary vocal symbols by means of which a social group co-operates.
- Law is a system which is limited to a social group.
- Similarly Law is limited and demands social acceptance, is also upgraded to social definitions

/fuːl/







DEVELOPMENT OF LANGUAGE AND LAW

- Language and law changes and expands according to experience
- Hindi from Vedic Sanskrit
- English from German
- Law from natural law
- Language and law both have been changeable, progressive and adaptable to cultural consciousness.

COMMUNICATION SIMILARITIES

Who is communicating?	Emitter
To whom?	Recipient
What is the method of communication?	The code
What is the content of communication?	The message
How is the message received?	Receiving through a structure
Purpose of the message?	To function

IMPORTANCE OF LANGUAGE FOR LAW

- Law is made by the means of language
- Law is controlled by logic.
- Advocate's role and establishment of social control
- Rule 1: assist in making statements related to fact
- Rule 2: assist and give effect in convincing
- Static and Dynamic form of language
- Magic Words

DON'T EAT AND DRINK

DON'T DRINK AND DRIVE

MEANING OF LEGAL LANGUAGE

- Used by legal professionals
- Technical language (Register)
- Does common man understand legal language?

Register often refers to the degree of formality of language, but in a more general sense it means the language used by a group of people who share similar work or interests.

Field Dimension	Mode Dimension	Role Dimension	Formality Dimension
Subject matter	Application	Language Influence	Usage as a register

MEANING OF LEGAL LANGUAGE

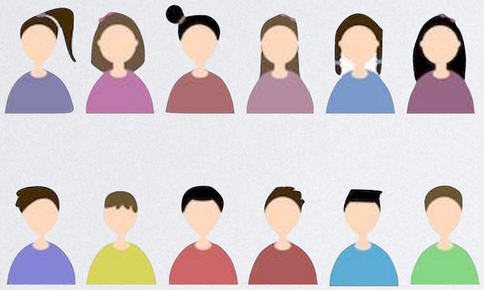
- How is legal language different from other technical term? A need to simplify.
- Words have different meaning
  - Technical usage
  - Ordinary usage
  - Stylised usage



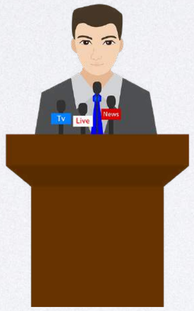
An elephant is exploring its freedom, running away from the chains to explore its mother.

SCOPE AND USE OF LEGAL LANGUAGE

Types of people who are affected by Law



Ordinary citizen



Member of Parliament



Judges



Legal Advisers

1st dimension

2nd dimension

3rd dimension

4th dimension

5th dimension



Principles of Legal Language

Legal Language and Legal Reasoning

Principles for all legal writing

- Framing your thoughts
  - Have something to say and think it through
  - Plan your writing project: try linear outlining
  - Order your material in a logical sequence
  - Divide your document into sections

1. Have something to say and think it through.

- Ideas you might possibly mention.
- Ideas you precisely want to mention.
- To state them cogently with adequate reasoning and support.

Take a California judicial opinion issued just after the turn of the 20th century, a period still heavily represented in casebooks.

And in the outset we may as well be frank enough to confess, and, indeed, in view of the seriousness of the consequences which upon fuller reflection we find would inevitably result to municipalities in the matter of street improvements from the conclusion reached and announced in the former opinion, we are pleased to declare that the arguments upon rehearing have convinced us that the decision upon the ultimate question involved here formerly rendered by this court, even if not faulty in its reasoning from the premises announced or wholly erroneous in conclusions as to some of the questions incidentally arising and necessarily legitimate subjects of discussion in the decision of the main proposition, is, at any rate, one which may, under the peculiar circumstances of this case, the more justly and at the same time, upon reasons of equal cogency, be superseded by a conclusion whose effect cannot be to disturb the integrity of the long and well-established system for the improvement of streets in the incorporated cities and towns of California not governed by freeholders' charters.

- The court simply states we made a mistake the last time. Which reader would like to penetrate into the subject?

- You need a penetrating mind to cut through that verbal foliage.

Principles for all legal writing

- Framing your thoughts
  - Have something to say and think it through
  - Plan your writing project: try linear outlining

2. Plan your writing projects - try non linear outlining - start outlining your projects

- Think of things you want to say.
  - As many things as possible
  - As quickly as possible
- Figure out a sensible order for those outlining thoughts.

- Now the outline is your guide.
- Now keep your draft aside for sometime:
  - Come back
  - Look into
  - Think again
  - And edit it

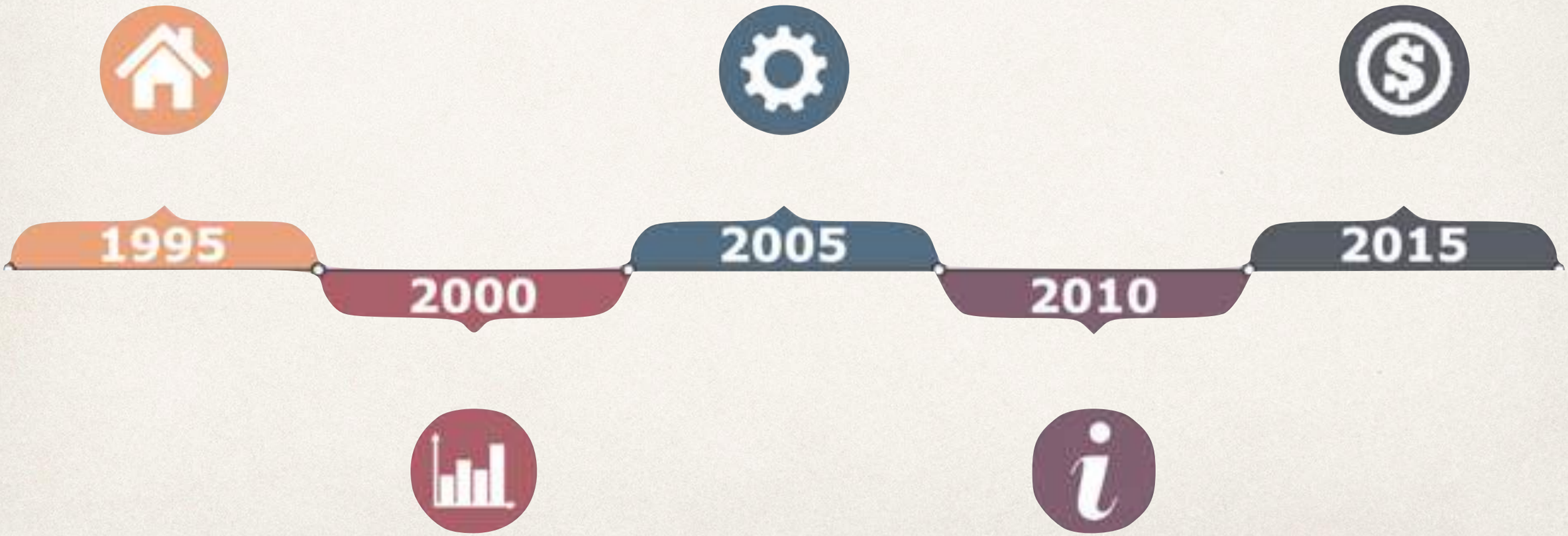
- Each of the above step is a separate intellectual function.
- If complied less time consuming.

Principles for all legal writing

- Framing your thoughts
  - Have something to say and think it through
  - Plan your writing project: try linear outlining
  - Order your material in a logical sequence

3 Order your material in a logical sequence

- Present facts chronologically.
- Keep related material or interlinking material together.



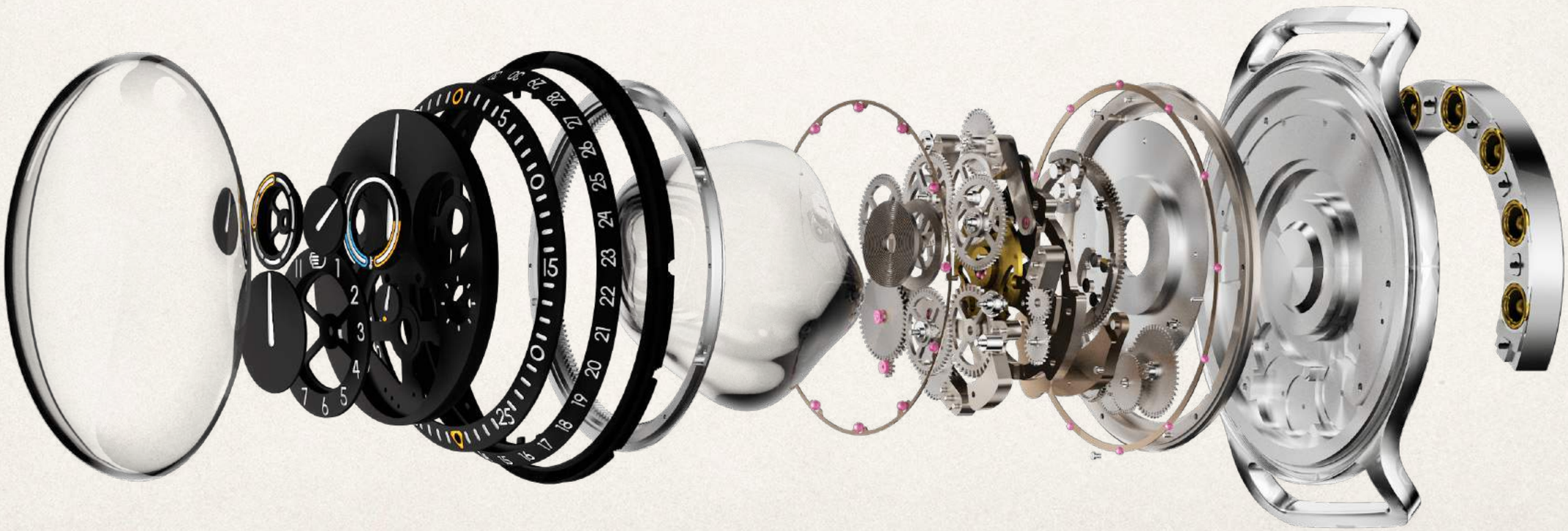
- Adopt a structure (arrangement for your analysis)
  - Introduction of general subject matter of the paper
  - An overview of some of the historical context of the problem or legal concepts to be discussed
  - Previous or recent decision of the court
  - Analysis of that decision
  - Policy suggestion of their thesis
  - Conclusion (should not contain anything new)

Principles for all legal writing

- Framing your thoughts
  - Have something to say and think it through
  - Plan your writing project: try linear outlining
  - Order your material in a logical sequence
  - Break your analysis

4 Break your analysis

- Break your analysis in component parts - orderly and integrated way.



- The structure of paper should reflect the basic components of argument which has to support your thesis.

- Do an outline before you begin to write

  - Divide your documents into sections
  - Divide sections into smaller parts as needed
  - Use informative headings for them

- Advantage of headings
  - They help you to organise your thoughts into categories
  - Give readers their bearing in a glance
  - Provide some visual variety to your page
  - Make it possible to skim through the text
  - Instant recollection
  - When collected in a table of content, they provide a road map

Principles for all legal writing

- Phrasing your sentences
  - Omit needless words
  - Keep your average sentence length to about 20 words
  - Keep the subject, verb and the object together
  - Prefer the active voice over the passive
  - Use parallel phrasing for parallel ideas
  - Avoid multiple negatives
  - End sentences emphatically

1 Omit Needless Words

- Combating verbosity helps
  - Your reader to read fast
  - Your own clarity is enhanced
  - Your writing will have a greater impact

For example look at the following sentence

Although the investment advisor must be paid, the source of payment does not matter

It is not necessary that an investment advisor's compensation be paid directly by the person receiving investment advisory services, but only that the investment advisor receive compensation from some source for his or her services.

Principles for all legal writing

- Phrasing your sentences
  - Omit needless words
  - Keep your average sentence length to about 20 words

2. Keep your average sentence length to about 20 words

- Length of sentence determines readability
- Fog Index should be calculated

2. Keep your average sentence length to about 20 words

- Fog Index
  - Number of words in a sentence
  - Once it reaches 100 words divide it by the number of sentence = avg. number of words per sentence
  - Count the number of multisyllabic words
  - Add the multisyllabic words withe avg number of words per sentence
  - Multiply your total by 0.4

For example look at the following sentence

Please prepare to supply a read out of your findings and recommendations to the officer of Southwest group at the completion of your study period. As we discussed the undertaking of this project employees no currently known incidence of impropriety in the Southwest group, 9 is designed specifically to find any. rather, it is too short answers of sufficient caution, control, and impartiality invent dealing with an area laden with search potential vulnerability. I am confident that we will be better serve as a company as a result of this effort.

For example look at the following sentence

Please prepare to supply a read out of your findings and recommendations to the officer of Southwest group at the completion of your study period. As we discussed the undertaking of this project employees no currently known incidence of impropriety in the Southwest group, 9 is designed specifically to find any. rather, it is too short answers of sufficient caution, control, and impartiality invent dealing with an area laden with search potential vulnerability. I am confident that we will be better serve as a company as a result of this effort.

Number of words - 92

Number of sentences - 04

Number of multisyllabic words - 16

92 / 4 = 23 words per sentence in an average

23+16 = 39

39*0.4 = 15.6

23+16 = 39

39*0.4 = 15.6

17	High Vocabulary Level
16	Research Scholars
15	Research Scholars
14	Post Graduate Scholar
13	Post Graduate Senior
12	Graduate Scholar
11	Graduate Senior
10	College Senior
9	College Junior
8	College Fresher
7	High School
6	High School

Principles for all legal writing

- Phrasing your sentences
  - Omit needless words
  - Keep your average sentence length to about 20 words
  - Keep the subject, verb and the object together

3. Keep the subject, verb and the object together

- Towards the beginning of the sentence
- A sentence has two vital elements
  - Subject
  - Predicate typically consist of a verb and an object
- The reader approaches each sentence by looking for the action and easy understanding.

Principles for all legal writing

- Phrasing your sentences
  - Omit needless words
  - Keep your average sentence length to about 20 words
  - Keep the subject, verb and the object together
  - Prefer the active voice over passive voice

4. Prefer the Active voice over Passive voice

- If you are active - you do the thing - Subject performs
- If you are passive - thing is done to you - Object is affected

- Always requires fewer words.
- It better reflects a chronological order of sequence
- Syntax meets the English speaker’s expectations
- Easily understandable and more strong and lively
- (Passive can be used if and only if the object is more important)

Principles for all legal writing

- Phrasing your sentences
  - Omit needless words
  - Keep your average sentence length to about 20 words
  - Keep the subject, verb and the object together
  - Prefer the active voice over passive voice
  - Use parallel phrasing for parallel ideas

5. Use parallel phrasing for parallel ideas

- Put related words together in ways that match reader's natural expectations (grammatical form)
- It is a device for balancing list

- The jury weighed the evidence carefully, skilfully and wisely.

- The argument were long, disorganised and unpersuasive.

- The facilities are available to directors, officers and corporate counsel.

- The perpetrators drove to Surat, changed cars and dropped the box on the side of the road outside Akshardham temple.

nor

- Neither the Principal or the staff supported the argument.

Principles for all legal writing

- Phrasing your sentences
  - Omit needless words
  - Keep your average sentence length to about 20 words
  - Keep the subject, verb and the object together
  - Prefer the active voice over passive voice
  - Use parallel phrasing for parallel ideas
  - Avoid negatives and multiple negatives

6. Avoid multiple negatives

- No more than one officer may not be in the polling place at a given time.

- No more than one officer may be in the polling place at a given time.

- Only one officer may be in the polling place at a given time

6. Avoid multiple negatives

- A single negative often is not very taxing
- But if possible avoid negative
- However if you are stating a prohibition - Don’t leave the footpath

Principles for all legal writing

- Phrasing your sentences
  - Omit needless words
  - Keep your average sentence length to about 20 words
  - Keep the subject, verb and the object together
  - Prefer the active voice over passive voice
  - Use parallel phrasing for parallel ideas
  - Avoid negatives and multiple negatives
  - End sentences emphatically

7. End sentences emphatically

- Difference between an amateur and a professional writer.

- Rama died three weeks later in Lucknow, UP
- Rama died in Lucknow, UP, three weeks later
- Three weeks later while visiting Lucknow, UP, Rama died

Emphasises on the place

- Rama died three weeks later in Lucknow, UP

Time of death

- Rama died in Lucknow, UP, three weeks later

Emphasises on death itself

- Three weeks later while visiting Lucknow, UP, Rama died

Principles for all legal writing

- Choosing your words
  - Remove unnecessary jargons

8. Remove unnecessary jargons

Legalism	Plain English
As to	About
Bring an action against	sue
herein	In this
Inasmuch as	Since, because
Not less that	Atleast
Prior to	Before
Subsequent to	After

Principles for all legal writing

- Choosing your words
  - Remove unnecessary jargons
  - Use strong precise words

9. Use strong precise words

- Minimise is, are, was and were
  - If there is information to which the company has reasonable access, the designated witness is required to review it so that the witness is prepared on all matters of question.
  - If the company has reasonable access to information, the designated witness must review it to prepare for all matter of questioning.

Principles for all legal writing

- Choosing your words
  - Remove unnecessary jargons
  - Use strong precise words
  - Avoid shun words

10 Avoid shun words

- Avoid abstract nouns
  - Someone was in violation of the law.
  - Someone violated the law.

Principles for all legal writing

- Choosing your words
  - Remove unnecessary jargons
  - Use strong precise words
  - Avoid shun words
  - Simplify wordy phrase

11 Simply wordy phrase

- An adequate number of
- **Enough**
- A number of
- **Many, several**
- At the present time
- **Now**
- During such time as
- **While**
- For the reason that
- **Because**
- Prior to
- **Before**
- The majority of
- **Most**

Principles for all legal writing

- Choosing your words
  - Remove unnecessary jargons
  - Use strong precise words
  - Avoid shun words
  - Simplify wordy phrase
  - Avoid doublets and triplets

12 Avoid doublets and triplets

- alienate, transfer and convey - transfer would suffice
- due and payable - due
- simple and very easy - easy

Principles for all legal writing

- Choosing your words
  - Remove unnecessary jargons
  - Use strong precise words
  - Avoid shun words
  - Simplify wordy phrase
  - Avoid doublets and triplets
  - Refer to people and company by name

13 Refer to people and companies by name

- Calling people or company plaintiff, defendant etc. violates the principle of a good writing.

- Preference for real name does have three limited exceptions:

  - When you are discussing a case other than the one you are currently involved in

  - When the opponent is extremely sympathetic in comparison with your client

  - When multiple parties are aligned in such a way that a single name is inaccurate

Principles for all legal writing

- Choosing your words
  - Remove unnecessary jargons
  - Use strong precise words
  - Avoid shun words
  - Simplify wordy phrase
  - Avoid doublets and triplets
  - Refer to people and company by name
  - Avoid new acronyms
  - Make everything you write speakable

Legalese

Legal Language is a type of English used in legal writing. Legal Language is structured logistic form based on logical, coherent and natural rules. It is dissimilar to the ordinary natural language in the terms of morphology, syntax, semantics and non-English and archaic vocabulary. The primary intention of legal language is to achieve

1. consistency (steadiness and coherence),
2. validity (for a duration),
3. completeness (should not be incomplete) and
4. soundness (logically acceptable).

A specialised use of vocabulary, phrases, syntax and linguistic patterns govern the usage of legal language.

Legalese

Legalese is a pejorative term associated with a traditional style of legal writing, specialised discourse of lawyers which a lay reader cannot readily comprehend. This term does not deal with the positive aspect of the language but the cluttered, wordy, indirect and unnecessary technical word and phrase. The traditional style of writing that is often termed as reader-unfriendly. The main four Cs or the characteristics of good writing are not present in the legalese.

1. Clear
2. Correct
3. Concise
4. Complete

Places where legalese is used

1. Academic Writing
2. Judicial Writing
3. Legislative Writing

The reason legalese should be avoided are as follows

Terminologies

Legalese uses a considerable number of technical terms which are unfamiliar to a layman, since most of the vocabulary are derived from other languages.

Contradictory words

Legalese uses familiar words used with special meaning, the layman finds it difficult to comprehend the author intended meaning and the contrasting usage in regular language.

Use of archaic terms

Most of the words in legalese are either derived from foreign language or old Saxon terms that are not practiced anymore.

Lack of Punctuation

This is one of the problems with the archaic drafting, particularly in conveyancing (preparation of document) and deeds is the absence of punctuation. It is believed that the use of punctuations other than commas will make the legal language ambiguous, also the fact that punctuations are undetectable in a legal document. Therefore presence of punctuations can tamper the authenticity of the original document. The alternative usage is to create another sentence adjoining the original sentence, either making the sentence long and complex.

Repetition

The mix of language used in early legalese led to the tendency to string of two or three words to convey the meaning of a single legal concept. Words with identical meaning are joined leaving uncertainty to the reader whether all the words mean different. Eg: altering or changing the law shall be a felonious offence.

Pronominal Adverbs

A Germanic Adverb structure, formed by the replacement of a preposition and adverb by turning the former into a prepositional adverb and the later a locative adverb and finally join them in a reverse order.

EXAMPLES

in that - therein, by this - hereby etc.

Unusual Word Order

Compared to the standard English the legalese follows a very unusual word order with no respect to the original S-V-O pattern.

EXAMPLES

1. Across the river and through the woods to the librarian's house go James and Roger.
2. The provision for discontinuance herein after the manifestation of itself or will at any penalty of the borrower momentarily or forthwith abide by the aforementioned facilities.

Legal Language

This book aims to provide a relatively comprehensive description of legal English, including how it got to be the way that it is, its present characteristics, how lawyers use language in the courtroom, and the movement to reform it. The major theme running through the book is how well legal language functions as a means of communication. Many of the other uses or goals of legal language, including the goal of winning cases, the law's desire to appear objective and authoritative, and lawyers' use of language as a marker of prestige and badge of membership in the profession, may limit or conflict with that central aim.

Origins

How did legal language get to be the way that it is? Is it the result of a conspiracy by lawyers to retain their monopoly? Or did it just develop naturally over the centuries? To answer such questions we need to look at the history of the language of lawyers.

The Celts

There are virtually no remnants of the legal language of the original Celtic inhabitants of England, although there are some indications that it was poetic and not particularly comprehensible for ordinary people, a theme that continues to resonate.

The Anglo-Saxons

The Anglo-Saxons pushed the Celtic language to the fringes of Britain. Some Anglo-Saxon words or legal terms have survived to today, including writ, ordeal, witness, deem, oath and moot. Words had an almost magical quality in Anglo-Saxon legal culture. Their law used alliteration and conjoined phrases, a practice that has, to a limited extent, survived to the present (as in rest, residue and remainder). The increasing linguistic complexity of Anglo-Saxon laws led to more complicated legal language, suggesting that the complexity of legal language may to some extent simply reflect an increasingly complicated society.

Latin and the Advent of Christianity

Christian missionaries landed in 597 and (re)introduced Latin. Latin terms that entered legal language in this period include words like clerk. One impact of Christianity was to encourage the use of writing, which was later to have a tremendous impact on the law. Although Latin was incomprehensible to most of the population, it enhanced communication at a time when there was no standard for written English.

The Scandinavians

Vikings raided the English coast, and eventually settled down. Legal terms from Norse include the word law itself, but otherwise the language did not have a large impact on legal English.

The Norman Conquest and the Introduction of French

William the Conqueror Invades England

The Norman conquest in 1066 placed French-speaking Normans in virtually all important positions in England; French thus became the language of power. Virtually all English words relating to government are originally French. The Normans initially used Latin rather than French as a written language of the law. Only around 200 years after the conquest did French statutes appear. They remain French until the 1480s. Strong evidence that the courts operated in French did not appear until the end of the 13th century. The use of French in courts seems tied to the expansion of jurisdiction of royal courts during this period; royal courts were logically conducted in French, which was still the language of the aristocracy and royal household at this time. In a sense, therefore, adoption of French for legal purposes could initially have promoted communication with those most affected by royal law.

Ironically, at the same time that French was in ascendancy as the language of the law, use of Anglo-French as a living language was beginning to decline. It is probably no accident that this was also the period when a professional class of lawyers arose. Soon after 1400, Anglo-French was virtually extinct as a living language, but it had become firmly entrenched as the professional language of lawyers.

The Continuing Use of Latin

Throughout this period, Latin continued to be used as a legal language. It came to be known as "Law Latin," and included various legal terms of French origin, as well as English words when clerks did not know the Latin. Legal maxims, even today, are often in Latin, which gives them a sense of heightened dignity and authority. Names of writs (mandamus, certiorari) and terminology for case names (versus, ex rel., etc.) are still in Latin, perhaps a reflection of the use of Latin for writs and court records until the early 18th century.

Law French

French eventually became a language used only by lawyers, and became known as "Law French." Early efforts to abolish it in court proceedings failed. Possible reasons for the retention of Law French after its demise as a living language include claims that it allowed for more precise communication, especially with its extensive technical vocabulary; the dangers of having

ordinary people read legal texts without expert guidance; the conservatism of the profession; and a possible desire by lawyers to justify their fees and to monopolize provision of legal services. If nothing else, it reflects the conservatism of the profession at the time.

Some of the characteristics of Law French that have left traces in today's legal language include addition of initial e to words like squire, creating esquire; adjectives that follow nouns (attorney general); simplification of the French verb system, so that all verbs eventually ended in -er, as in demurrer or waiver; and a large amount of technical vocabulary, including many of the most basic words in our legal system. Law French eventually was reduced to around 1000 words, forcing lawyers to add English words to their French texts with abandon. A notorious example is the "brickbat" case from 1631.

Trilingualism and Code-switching

During this period, lawyers had to be trilingual in French, Latin and English. Each language was traditionally used in specified domains. Even more than today, perhaps, law was in those days a profession of words.

The Resurgence of English

The Demise of Latin and Law French

Use of Latin and Law French for legal purposes gradually declined, and was given a final coup de grâce in 1730.

The Increasing Importance of Writing and Printing

Legal language was originally entirely oral. If there was a writing of a legal event, it was merely a report of the oral ceremony. Eventually, the writing became a type of autoritative text, the dispositive or operative event itself. What now mattered was what was written, and what was said became largely or entirely irrelevant. This progression can be seen in written reports of court proceedings, which first merely documented an oral event, but which later became the event itself, so that what is said in an appellate court in the United States today is legally immaterial; what matters is the written opinion. Legislation also went through this progression. Printing contributed to these trends by allowing for a standardized and widely-available version of the written text. Now all that matters is the enacted text of a statute, or the published version of a judicial opinion, which has led to an ever increasing fixation on the exact words of legislation, and has permitted the development of the doctrine of precedent.

Further Developments in England

As pleadings became written, rather than oral, they also became subject to increasing textual scrutiny and were often rejected for the smallest linguistic slip. This encouraged use of formbooks, which had a conservatizing effect on legal language by promoting continuing reuse

of antiquated phrasing. And legal documents became ever longer as clerks and lawyers charged by the page. In part for these reasons, the legal profession began to find itself in low repute.

Legal English Throughout the World

English colonizers transported legal English throughout the British Empire, including North America. Despite antipathy towards lawyers and the English, the Americans maintained English legal language. The Articles of Confederation were linguistically very convoluted and full of legalese. Thomas Jefferson advocated improving the style of statutes, although did not really follow through. The Declaration of Independence and American Constitution are elegant and relatively simple, but in general, American legal language closely resembled that of their former colonial masters. The same is true in other former English colonies. To a large extent, the retention of English legal language is closely related to the retention or adoption of English common law. People who adopt concepts from another culture tend also to adopt the words used to describe those concepts.

Conclusion

Lawyers did not invent Law French, or today's legal language, for the purpose of monopolizing the profession. It developed naturally, under the influence of diverse languages and cultures, as well as the growing complexity of the legal system and the shift from predominantly oral to mainly written communication. Yet to some extent, legal language does have the effect of enabling lawyers to retain their virtual monopoly on providing legal services. The fact that laymen remain dependent on lawyers for creating and "translating" legal texts makes it hard for lawyers to abandon their distinctive language.

The Nature of Legal Language

How does the language of the law differ from ordinary speech and writing? Do these differences enhance clear and precise communication, as lawyers typically claim, or detract from it?

Talking Like a Lawyer

Lawyers seem to have developed some linguistic quirks that have little communicative function, and serve mainly to mark them as members of the legal fraternity.

Pronunciation and Spelling for Cohesion

The odd pronunciation of defendant (with a full vowel in the last syllable, rhyming with ant) and the spelling judgment (consistently without an e) seem to serve as a marker of group cohesion. Ironically, when pronouncing words of Latin or Law French origin, the recent trend is

not to follow the expected traditional pronunciation of the legal profession (i.e., as though the words were English), but rather to use the articulation taught in foreign language classes. The reason may be that the traditional legal pronunciation sounds unsophisticated to the modern ear, and lawyers are very concerned about appearing prestigious.

Lengthy and complex sentences

Studies show that sentences in legal language are quite a bit longer than in other styles, and also have more embeddings, making them more complex. Sometimes there seems to be an attempt to state an entire statute or linguistic principle in a single sentence, as illustrated by a California law against insuring lotteries. Such a statute can easily be broken down into more digestible pieces with no loss in content, so there is no justification for such long sentences today.

Wordiness and redundancy

Lawyers are very prone to use wordy and redundant phraseology, including what is sometimes called boilerplate. Lawyers also tend to use ponderous phrases (such as at slow speed or subsequent to) where a single word would suffice (slowly; after). On the other hand, sometimes legal language is not overly wordy at all, but highly compact or dense. The economic incentives and strategic motivations under which lawyers operate seem to be significant here: when clients are paying a large fee, there is a motivation to be verbose; when a document is written for a busy court, however, lawyers realize they have to get to the point quickly.

Conjoined phrases

Conjoined phrases consist of words like by and and or, as in I give, devise and bequeath the rest, residue and remainder... They have been used since Anglo-Saxon times. Conjoining words is still extremely common in legal language. One reason for such lists of words is to be as comprehensive as possible. They also can add emphasis. But they can lead to ambiguity because of the rule of interpretation that every word should be given meaning and nothing treated as surplusage. Thus, careful communication requires that lawyers use such conjoined phrases with care.

Unusual sentence structure

Lawyers make use of unusual sentence structures, as in a proposal to effect with the Society an assurance, which is taken from an insurance policy. Often these unusual structures result in separating the subject from the verb, or splitting the verb complex, which can reduce comprehension.

Negation

Legal language seems to use an inordinate amount of negation. To some extent this may result from the tendency to regulate by prohibition; judges prefer negative injunctions, for example. Research reveals that especially multiple negation impairs communication and should be avoided.

Impersonal Constructions - The reason we don't relate

A related characteristic of legal style is impersonal constructions. The best example is avoidance of first and second person expression (I and you). Using the third person in statutes does make some communicative sense (as in Sex offenders shall register with the police...) because the statute "speaks" not only to sex offenders, but to the police and the courts; you might therefore be inappropriate or ambiguous. Elsewhere (as in the tendency of judges to refer to themselves as the court rather than I) it creates an impression of objectivity and authority, thus helping to legitimate the legal system. Multi-judge panels seem less reluctant to use we, and will even use this pronoun to refer to a decision made by their predecessors long ago. Here, the first person stresses the continuity and perceived timelessness of the law.

Conclusion

Many of the quirky or stylistic features of legal writing serve little or no communicative function and could easily be dispensed with, especially because they may reduce comprehension.

The Quest for Precision

One of the main justifications for a distinct legal language is that it is capable of extremely precise communication.

Avoiding Pronouns

One means of gaining precision is to repeat nouns (e.g., player), rather than using a pronoun (e.g., he) after a person or thing is introduced. Pronouns can sometimes have ambiguous reference, so this technique can indeed enhance precision. Lawyers, however, avoid pronouns almost routinely, even where no ambiguity is possible. Avoiding pronouns does have an unintended benefit: it reduces the use of sexist language.

Undermining Precision

Legal documents often declare that the masculine includes the feminine, the singular includes the plural, or that one tense includes the other. This may originally have functioned to reduce verbosity, as suggested by Jeremy Bentham, but it obviously can undermine precise

communication when reference to a specific gender, number or tense is desired. Perhaps legal language is not always so precise, after all.

Strategic Imprecision

Passive sentences allow the speaker or writer to omit reference to the actor (as in the girl was injured at 5:30). One reason lawyers use passives is for strategic reasons: to deliberately de-emphasize or obscure who the actor is. Passives are therefore impersonal, giving them an aura of objectivity and authoritativeness; this may explain why they are common in court orders. They are less common in contracts, where the parties typically wish to spell out exactly who is to do what, and thus have an interest in precise reference to the actors.

Nominalizations are nouns derived from verbs (e.g., injury from the verb injure). Like passives, they can be used to obscure the actor (the injury occurred at 5:30). A legitimate function of nominalizations is that they allow the law to be stated as generally and objectively as possible. Lawyers often use passives and nominalizations strategically, however. They avoid them when they wish to be as precise as possible, and use them when they wish to be deliberately imprecise.

Flexible, General, or Vague Language

Some legal terms are not precise at all, but are noted for their generality, flexibility, or even vagueness (e.g., reasonable or due process). Flexibility has a valid communicative function; a term like reasonable can change with the times and circumstances. Because it can change with the times, flexible language is characteristic of constitutions. It may also be valuable when lawyers wish to be as comprehensive as possible. Yet sometimes a term like obscene or indecent is felt to be too pliable, because it gives great discretion to the decisionmaker; the Supreme Court has tried to limit that flexibility by tying obscenity to community standards. Flexibility is likewise less appropriate in criminal statutes in general, because people ought to know in advance what is legal and what is not. Lawyers also are nervous of overly flexible language, because it may be interpreted in an unintended way in the future.

The Tension Between Flexibility and Precision

Lawyers are often torn between the conflicting goals of flexible communication (through the use of general language) and precision (often by using word lists of specific examples). Sometimes it is possible to avoid the vagueness problems inherent in flexible terms by using a word list, which tends to allow for more precise communication. This is illustrated by a hunter harassment statute, which a court struck down on vagueness grounds when it forbade harassing hunters in general terms, but later upheld after the legislature added a specific list of prohibited activities. But aiming for precision by using lists has its costs. There are several interpretive maxims, including noscitur a sociis, ejusdem generis, and expressio unius, which all tend to restrict, rather than expand, the interpretation of items in a list. Elsewhere, flexible language has

sometimes proven preferable to precise lists, as shown by developments in the prudent investment rule. Lawyers consequently aim to achieve the best of both worlds by using phrases like any X, including but not limited to a, b, and c, thus marrying the general and the specific, but there will inevitably be tensions between the two.

Conclusion

Legal language can, in some ways, communicate quite precisely. But other characteristics undermine precision, and certain features can be used strategically to be deliberately imprecise. Furthermore, lawyers may opt for flexible communication, which is in some ways the opposite of precision and is often in tension with it.

The Legal Lexicons

Another way in which the language of the law is claimed to promote clear and concise communication is through a specific legal vocabulary.

Legal Archaisms

A common criticism of the legal vocabulary is that it is full of antiquated features. These include archaic morphology (further affiant sayeth not); the legal use of same, said, aforesaid, such and to wit; use of the subjunctive, especially in the passive (be it known); and words like herewith, thereunder, and whereto. Although these expressions often had a legitimate function in the past, the claim that archaic words or expressions should be preserved because they are somehow more precise than ordinary language is simply not defensible.

Linguistic Creativity may be due to gender neutrality

Even though some legal language is quite archaic, many other old legal terms have died off as the concepts to which they refer became obsolescent. In fact, some areas of the legal lexicon are very innovative, as in terms like zoning and palimony. Such terms give the law the ability to deal with novel circumstances and legal developments.

Asylees, Escapees, and Tippees

Another example of linguistic creativity in legal language is the frequent formation of new words ending in -ee, which contrast to those ending in -or (mortgagee/mortgagor). Although these pairs are confusing for the lay public, they can enhance communication within the profession by filling lexical gaps that exist in ordinary language.

Conservative or Innovative?

Legal language is neither hopelessly conservative nor remarkably innovative. Often there are reasons for using antiquated vocabulary. Like religious language, the language of the law is quite conservative with regard to sacred or authoritative texts, which adherents are reluctant to

change or even to translate for fear of affecting the meaning. The fact that courts have authoritatively interpreted a term does inspire caution, of course. Further, using proven language over and over can be economical. A less palatable reason is that because archaic language is hard for most people to understand, lawyers sometimes have a financial incentive to use it to help justify their fees. Yet when dealing with new legal concepts for which there is no existing word, lawyers do not hesitate to create novel terminology. As a result of these conflicting motivations and goals, legal language is an odd mixture of archaic alongside very innovative features.

Formal and Ritualistic Terminology

The legal lexicon also has many formal or ritualistic words and phrases. One function of such language is to emphasize that a proceeding is separate from ordinary life. Often ritualistic language frames a legal event by signaling the beginning and the end. In private legal documents, ritualistic and formal language indicates that something like a will is an important legal act, sometimes called the ritual or cautionary function of legal formalities. Of course, this function could be fulfilled by means that are more comprehensible. In fact, taken to extremes, formal language is simply pompous and serves little function besides its possible prestige value.

Do and Shall

When do is used in a declarative sentence, it is normal to add emphasis. This is not its function in legal language (e.g., The People of California do enact...) Here, it marks that something is performative. The adverb hereby (as in the People of California hereby enact...) fulfills the same function: indicating that by saying enact, the legislature by those very words engages in the act of enacting. Because do is anachronistic and unusual in this usage, it should be avoided; hereby can easily communicate performativity, where necessary.

Shall is also used in an unusual sense in legal language. It is commonly said that legal use of shall does not indicate the future, but the imposition of obligation. But the word 'shall' appears to function also in promises or declarations. In reality, shall seems to mark that the phrase in which it occurs is part of the content or proposition of a performative phrase. Thus, in a contract the parties perform the act of promising by signing the contract; the content of their promises is indicated by shall. Shall does have the function of indicating that the document in which it occurs is legal, which may help explain its pervasiveness in legal language. Generally, however, the meaning of shall can be communicated more comprehensibly by must or will or is.

Jargon, Argot, and Technical Terms

It is sometimes said that the legal vocabulary is full of argot. Argot is generally used to communicate in secret among a small group; this does not properly typify legal language. Others claim that legal terminology is largely jargon. I use the term jargon to refer to language of a profession that is not sufficiently precise to qualify as a technical term (e.g., conclusory).

Jargon can be useful in facilitating in-group communication, but should obviously be avoided in communicating with the public.

If the distinctive legal vocabulary actually enhances communication, it must be mainly through technical terms, or terms of art. It is sometimes claimed that legal language has few true terms of art. Any law dictionary reveals that there are large numbers of technical terms, however. Those who claim otherwise may have too strict a notion of the precision required for a technical term. As long as an expression has a relatively exact meaning, is used by a particular trade or profession, and promotes brevity of expression, it fulfills an important communicative function and can properly be called a technical term. Such terms are less exact in law than in the hard sciences because legal terms typically refer to concepts that change over time, or are slightly different in divergent jurisdictions. And they may be modified by judicial decisions. Contrary to expectations, judicial decisions, by following the intent of the drafter over the "plain meaning" of a word, often make the meaning of the word less precise. Courts and the legal profession could work together to make legal terminology much more exact, but it would come at the cost of negating the intentions of speakers who use a term in a different sense. Legal terminology will therefore never be as precise as the profession might hope.

Relationships Among Words

In ordinary English words exhibit certain systematic lexical relationships. The same is true for legal language, but with a number of deviations that can trap the uninitiated.

One way that words can be related is as homonyms, or via polysemy. In either case, one word or sound sequence has two or more meanings. This can cause communication problems when legal terms have both an ordinary meaning and a divergent legal meaning (as in consideration or personal property). These words, which I call legal homonyms, are particularly problematic because laymen are very likely to (mis)interpret them in their ordinary sense, and even courts are sometimes unsure whether the ordinary or technical meaning was intended.

Words can also be related as synonyms, which refers to words with very similar meanings. On the one hand, lawyers are told to avoid synonyms or elegant variation. Using a different word is assumed to invoke a different meaning. On the other hand, lawyers have a great love for long lists of synonyms, especially in conjoined phrases. Lists of synonyms can thus create interpretative problems.

A final relationship is an antonymy or lexical opposites. Legal language has a tendency to create such opposition where it does not normally occur. Speech and conduct overlap in ordinary language, but American courts now treat them legally as opposites: if something is speech, the First Amendment applies; if an action is mere conduct, it does not. Yet it must be confusing for the layperson to read that burning an American flag is free “speech."

Interpretation and Meaning

This section discusses several ways in which legal interpretation and meaning differ from ordinary language interpretation, and some of the reasons why.

Definitions

Definitions nowadays are normally descriptive, which means they are based on usage. In common law countries, no one has the authority to dictate how a word ought to be used, which would constitute a prescriptive definition. Definitions in legal language, however, are prescriptive because here there is an institution that can dictate how a word ought to be used: the legislature.

I call these declaratory definitions. They also occur in contracts and other legal documents. Such definitions can promote more precise drafting by stipulating that one of several possible meanings is intended. But they are also hazardous, because the reader may not always realize that what seems to be an ordinary word is defined in a specific--sometimes, aberrant--way. There are also incorporating definitions, which are not really definitions at all. They simply take a large amount of text and define it as X, allowing the text to be removed from the body of the statute and placed with the definitions. Although the practice can minimize redundancy in the text, it can also make less transparent and harder to find.

Reference

Reference is important to the law; the law of trademarks is largely about preserving the unambiguous reference of marks. Ambiguity of reference can also cause problems in wills. To avoid referential ambiguity in legal documents, lawyers often use what I call declaratory reference, declaring in a document that Garcia shall refer to Hilda Garcia, an individual residing in San Antonio, Texas. Linguists also distinguish between referential descriptions (a specific person or thing) and attributive descriptions (whoever meets the description). This is quite relevant in the law of wills, where a gift of my car could be either referential--the car I now own--or attributive (whatever car I own at death). Further, legislation is almost always written in an attributive (thus, objective) way, applying to any person who fits a description. This can be abused, however, as when a tax break that seems to be attributive in fact refers to a specific person or entity.

Meaning

Legal interpretation differs in several ways from ordinary understanding. In ordinary language, what really matters is what a speaker means by an utterance (speaker's meaning), rather than what a word or utterance means (word or sentence meaning). Irony provides a good example, because here the sentence meaning (I love being hit on the head by a brick) is highly misleading. In theory, legal interpretation of private documents also focuses on the speaker's

meaning, but this is undermined by the evidentiary limitations of the parol evidence rule. With statutory interpretation, courts now often look to the intent of the speakers (legislative intent). Yet referring to legislative intent is controversial, especially in the theory of interpretation called textualism, which has revived the plain meaning rule. The plain meaning rule excludes consideration of extrinsic evidence when the meaning of a statute is plain from a reading of the text itself. This is completely inconsistent with ordinary language interpretation, which uses any cues it can--such as shared background knowledge or information on the circumstances of an utterance--to determine the speaker's meaning.

But the plain meaning rule is not entirely irrational; it derives to some extent from the historic shift from oral to written communication. We tend to interpret written texts differently from speech. Someone who writes a text often tries to make it as autonomous as possible, so that any information needed to interpret it is contained in the text itself. This is often necessary, because the reader of a text may be in a very different location, at a very different time, and may know little or nothing about the circumstances surrounding the writer. Logically enough, legal documents are written to be very autonomous. One view of the plain meaning rule, therefore, is that judges will assume that the drafter was successful in creating an autonomous document, so that ideally extrinsic evidence should not be needed. At least as an initial assumption, this seems sensible.

Another reason for legal interpretation to place less emphasis on the speaker's meaning is the problem of collective authorship, as well as the fact that one or more of the authors may be dead or otherwise unavailable. Furthermore, legal interpretation must deal with the problem of gaps, when the text is silent on a particular point. In a spoken conversation, one interlocutor can ask the other to fill the gap. With most legal documents, courts must find some other means of deciding what to do when the text is silent. Courts thus necessarily construct meaning where there was none before, rather than simply interpreting the text. This is sometimes difficult to spot because courts prefer not to act in overtly authoritative ways, so they continue to speak of interpretation while actually engaging in construction.

A final difference between legal and ordinary interpretation derives from the fact that an interpreter must always keep in mind the rules and conventions used by the speaker or writer. There is a symbiotic relationship between encoding and decoding language. The evidence accumulated in this book suggests that legal writers do indeed use language and drafting conventions that are distinct from ordinary language. An example is that normally if someone uses synonyms, we assume she is engaging in elegant variation and that the synonymous terms refer to the same thing. Legal drafters generally try to avoid such variation; the legal interpreter will thus assume that the synonyms in fact refers to something different. Most students of legal interpretation have concentrated on what courts do, but they should perhaps pay more attention to the legal language and conventions of the drafters.

Variation in Legal Language

Legal Dialects

Dialects reflect linguistic variation on the basis of geography. Legal language is not a dialect, but it does have dialects of its own in that it varies according to place. Some of this dialectal variation results from differences in legal systems; English lawyers speak of solicitors and barristers, a distinction not made in the United States. Elsewhere, the concepts are similar, but words for them are different (British company law versus American corporate law). In countries such as India, legal English is infused with many terms for indigenous legal concepts. Thus, even though legal language is quite conservative in some senses, in other ways it again reveals itself as a relatively flexible means of communication by readily adapting to the situation in which it is used.

Spoken Legal Language

Legal language further varies depending on whether it is spoken or written. The most salient characteristics of legalese--archaic vocabulary, long and convoluted sentences, use of passives and nominalizations--are far more evident in written legal language. Written language is also more compact and dense. Spoken legal language tends to be less formal overall. An oral judgment by an English judge is perhaps the most formal type of spoken legal English. Oral arguments to a court tend to be in standard English, while addressing a jury might very well be in a regional variety of English that is aimed at identifying with the local population. As with medieval lawyers, choice of language variety in specified domains is dictated to some extent by tradition, but these days strategy also plays an important role.

Telegraphic Speech

Telegraphic speech leaves out all words that could be supplied by context; it is common in telegrams and headlines. It is often heard in the courtroom (lawyer: Objection! Judge: Overruled), but also in some quite formal settings, as at the end of an opinion (appeal dismissed). It again illustrates that lawyers can cut out excess verbiage when its suits their purpose.

Legal Slang

Despite claims that their speech habits are very formal, even pompous, lawyers not infrequently use legal slang. Slang enhances group cohesion and is often shorter (thus more "linguistically efficient") than more formal language. Examples include rogs for interrogatories, TRO for temporary restraining order, SLAPP suit for strategic lawsuit against public participation, and idioms like grant cert for grant a writ of certiorari.

Variation and Genre

There are various genres, or types, of legal writing. They illustrate again that legal language is not monolithic, but can vary substantially depending on the situation. Pleadings, petitions, orders, contracts, deeds and wills can be called operative legal documents because they create and modify legal relations. They tend to use a great deal of legalese. Expository documents are those that explain the law, including office memoranda, judicial opinions, and client letters. They tend to be in formal but standard English, with little legalese, except that they do use many technical terms. Especially judicial opinions have a fair amount of stylistic freedom, making use of metaphors and sometimes even poetry. Persuasive documents include briefs to a court and memoranda of points and authorities; their language is similar to expository documents. It is interesting and ironic to observe that documents drafted more directly for clients (operative documents like wills and contracts) seem to contain the most legalese, while those directed to colleagues within the profession (expository and persuasive documents) contain relatively less.

So What Is Legal Language Exactly?

Legal language has been called an argot, a dialect, a register, a style, and even a separate language. In fact, it is best described with the relatively new term sublanguage. A sublanguage has its own specialized grammar, a limited subject matter, contains lexical, syntactic, and semantic restrictions, and allows "deviant" rules of grammar that are not acceptable in the standard language. However we describe it, legal language is a complex collection of linguistic habits that have developed over many centuries and that lawyers have learned to use quite strategically.

In the Courtroom

Pleadings: Constructing The Legal Narratives

Narratives

A very general narrative structure, sufficient for our purposes, begins with some background information, continues with a chronological description of a series of events that leads to a problem or crisis. The narrative ends with the resolution of the problem or crisis.

Pleadings

The pleading stage, which begins a lawsuit, is where the plaintiff tells his story to the court. As a narrative, it is incomplete in at least two important ways. Unlike an ordinary story, which is asserted as truth, the story told in a complaint is merely alleged to be true; its truth remains to be established at trial. And it is incomplete in the sense that there has not yet been a resolution of the problem or crisis; this depends on the outcome of the trial.

The defendant can respond to the pleading in various ways: arguing that the story in the complaint is not legally adequate, or that the decisionmaker does not have the authority to offer a resolution (jurisdiction). Another option is to admit that the story is adequate, but to challenge its truth by denying the facts, or offering a counternarrative.

Pleadings tend to be extremely ritualistic in language. In medieval times, what mattered was not so much the content of a pleading as the words that were used; one slip could be fatal. Pleading remains formal and ritualistic, but currently the content has become far more important than the form.

Once the pleadings have determined that the plaintiff's story is legally adequate, the trial--to determine the truth--can begin.

Testimony and Truth

Many cases do not actually go to trial, but are settled. In criminal law, the settlement process is called plea bargaining, a process that can be quite informal and has developed a jargon or slang of its own.

When a case does not settle, it proceeds to trial. Various rituals signal that a trial is about to commence. The first order of business in a jury trial is the voir dire of the jurors. The search for truth can then commence. Most of the examples in the next two chapters derive from two murder trials, including that of O.J. Simpson.

Language Variation, Code-Switching in the Courtroom

Just as lawyers switch between language varieties when writing, they do the same when speaking in the courtroom. Normally, choice of one variety over another depends on the topic of conversation, or the ability of the hearer to understand a particular type of speech. Yet using a particular variety of language also has social implications in that we judge people by the language they use. Furthermore, use of a common variety of language can create a sense of group cohesion. Lawyers are inclined to use standard English in court when they wish to appear intelligent and competent, and regional varieties of English when they wish to bond with a jury.

Questioning of Witnesses

Witnesses come to court to tell their own story, which forms part of the larger narrative that is on trial. Although they generally prefer to tell their tales in narrative form, the legal system forces them to testify through a rigid question and answer format, which allocates control over testimony to the examining lawyer.

Direct Examination

Direct examination generally begins with giving the witness an opportunity to present a very brief narrative. The examining lawyer then generally follows up with increasingly coercive or

controlling questions, including wh-questions, which limit the witness to a brief response, or yes/no or alternative questions, which allow only two possible responses.

Lawyers use such questioning strategically, to ensure that all and only legally relevant facts are told, as well as to keep problematic facts from emerging, if possible. Careful questioning can also enhance precise communication by clarifying ambiguities in a witness's answer, or by asking the witness to explain unusual terminology.

Cross-Examination. Cross-examination allows an even more coercive question type: leading questions. Such questions are not tied to any specific form, but have in common that they suggest a single answer. One function of such questions is to muddy the waters by undermining the clarity of the witness's communication during direct examination. Or they can be used to undermine credibility by eliciting a clear statement that can later be contradicted by other evidence, as Simpson's lawyers did during cross-examination of Detective Mark Fuhrman.

The Language of Questioning

Lawyers are well aware that if they wish to communicate effectively with the jury though questioning, they must generally use ordinary English, not legalese. Their language tends to be fairly formal, however, to convey to jurors that they are intelligent and competent. Out of the presence of jurors, as during sidebar conferences, lawyers tend to be less formal and may even use slang, perhaps to emphasize that although they are adversaries, they belong to the same profession.

Implications of the Questioning Process

Questioning is not a neutral and transparent process of obtaining information. Narrative answers are generally more accurate than fragmented responses, for example. The wording of a question can influence the responses given by witnesses, according to psycholinguistic tests. Research also confirms that leading questions can influence the recall of witnesses. While objections by counsel can limit these influences, suggestive questioning is particularly problematic when it is used to subtly coach witnesses, out of the presence of a jury or opposing counsel.

The way that questions are answered can also influence the perceived credibility of the witness, the examining attorney, or both. Witnesses who speak in a powerful style (using little hedging and hesitation, for example), as well as those who speak formal standard English, tend to be evaluated as more intelligent, competent, and truthful. This is especially problematic for witnesses who cannot easily change their speech style. Ironically, trial lawyers have become aware of the research and are attempting to incorporate it into their trial strategies.

Creating a Written Record

The testimony of witnesses is transcribed by a court reporter. It is not truly verbatim and complete. One reason is that nonverbal information is not consistently included, although

lawyers will sometimes ask that the record reflect nonverbal information. More troubling is that reporters sometimes "clean up" the language of lawyers and judges, to enhance their feelings of prestige.

As in other areas of the law, the written text of the record has become what matters once the trial is over, making the actual oral event virtually irrelevant in subsequent proceedings. Lawyers consciously try to create an advantageous record through their questioning strategies. And as with other written legal documents, the record tends to be interpreted as an autonomous text. Thus, in perjury prosecutions, courts fixate on the language of the record to determine whether a witness made a false statement, largely ignoring the speaker's actual intentions.

Completing The Story

After the lawyers have produced evidence (largely testimony) to prove or negate the plaintiff's story, they make their summation or closing argument.

Closing Arguments

In closing, the plaintiff's attorney must weave together a complete narrative out of the disorganized fragments that were presented by various witnesses and other evidence at trial, much like a film editor. She must also persuade the jury that the story is true. Although lawyers tend to favor long lists of synonyms, for example, in closing they typically chose one or two that convey a sense or connotation that favors their strategic interest (as in calling an unborn child a baby in an abortion prosecution). They also use antonymy by contrasting one term with its opposite.

Although some lawyers use fairly formal standard English, they generally tend to be more effective if they use a somewhat more conversational variety. During her summation in the Simpson case, prosecutor Marcia Clark tried to bond with the female jurors by opening herself up and revealing her emotions, but was not really successful. Prosecutor Darden may have been somewhat more successful, carefully using second person pronouns to suggest that the murder victim, Nicole Simpson, was sending jurors a message from beyond the grave.

Defense attorny Johnny Cochran successfully personalized his client by emphasizing that he was Orenthal James Simpson, not merely the defendant. Like Anglo-Saxons of long ago, he used conjoined alliterative phrases (that the evidence was compromised, contaminated and corrupted) and rhyme (if it doesn't fit, you must acquit). Unlike Clark, Cochran successfully bonded with the mainly African American jury by invoking themes and images of the civil rights movement, and speaking like a preacher in a Black church. He used inclusive we to suggest a shared journey towards justice. Overall, by using relatively formal and standard English, he came across as well educated, while the subtle intonation and accents of a Black preacher allowed him to invoke group solidarity.

Instructing the Jury

In many proceedings, it is members of the public--the jury--who must decide the truth of the plaintiff's story. To some extent, the jury must also decide whether the story is legally adequate. Judges tell the jury how to go about this task by means of jury instructions. Unfortunately, most jury instructions are essentially written legal language, though presented orally, and thus do not communicate the law very well to the lay members of the jury. And judges seem to prefer formal language to appear objective by distancing themselves from other participants.

The reasonable doubt instruction is especially problematic; there is substantial evidence that jurors do not understand it very well, in part because it tracks the language of an 1850 case. Unfortunately, judges are extremely reluctant to explain the instructions in ordinary language, treating them as sacred text, and generally rereading them verbatim if the jury inquires regarding their meaning.

Resolving the Conflict

Just as lawyers use stories to present their cases, research indicates that jurors use them to determine the truth. The "truth" determined by the verdict is not factual truth, however, but "declared truth," which governs all later legal proceedings. After this "truth" is established, the judge is in a position to complete the unfinished narrative of the complaint by offering a resolution (or denying one) in her judgment.

Reforming the Language of the Law

Members of the public have been frustrated with legal language for quite some time. There has also been criticism from within the profession. In this section we discuss efforts to reform the language of the law. This can happen either via simplification (making the language of lawyers much more like ordinary language) or translation (leaving legal language essentially as it is but providing better translation to the public in ordinary language, when needed). Ultimately, we will probably need a bit of each.

What makes Legal Language Difficult to Understand?

Research shows many of the ways in which legal language causes problems in comprehension, especially for a lay audience. Technical vocabulary, unusual and archaic words, impersonal constructions, use of moadal like shall, multiple negation, long and complex sentences, and poor organization are all problematic. In fact, virtually all features of legal English seem to impede communication with the public.

Plain English

Given that legal language does not communicate very will with the public, what has the profession done about it?

Internal Legal Language

Internal legal language refers to communications directed at other legal professionals. Here, the need to reform would seem less compelling. Yet even internal communications are generally made on behalf of a client, who has a right to know what is being asserted on her behalf.

One area where the courts have explicitly recognized that people have a right to know what legal language means is criminal statutes, which must place the "average person" on notice that something is illegal. It is doubtful, however, that people really understand such statutes. Unfortunately, it may not be realistic to expect the average person to understand statutes. Understanding a statute requires more than plain language; a person must also have some background knowledge of the legal system and relevant judicial decisions. Still, we should strive to make statutory law as clear as possible. In fact, a fair amount of progress has been made; law schools teach plain English principles and drafting manuals encourage such practices. There has been progress in non-English speaking countries, like Sweden and Japan, as well. Overall, the organization and format of statutes has dramatically improved, and there is far less legalese. Unfortunately, statutes are ever more complicated in terms of substance. Better drafting practices in some ways allows them to become longer and longer.

Progress with other types of internal legal language is more mixed. Pleadings are still very formulaic. On the other hand, judicial opinions have greatly improved in style (though perhaps somewhat less in the United Kingdom).

Consumer Documents

Members of the public have an even greater interest in understanding consumer documents, which directly affect their rights and obligations.

Evidence shows that consumers do not understand legal documents like credit agreements and insurance policies very well.

The Plain English Movement

The Plain English Movement, part of the consumer movement, grew out of the notion that people should be able to understand important consumer documents. The movement was inspired by a revised promissory note introduced by Citibank in the 1970s, and eventually led to a fair amount of plain English legislation. Similar reforms occurred in countries like Australia and the United Kingdom.

Plain English Legislation

Is legislation the most effective way of promoting plain English? The earliest such statutes were phrased in very general or flexible terminology, requiring documents simply to be "clear and coherent." Later legislation aimed for greater specificity and precision by use of the list

approach, establishing a list of guidelines like the use of active verbs, short sentences, and no cross references. But guidelines are only as good as the people who apply them, and are hard for judges to review. A somewhat different approach is objective, requiring that documents meet certain readability criteria, like the Flesch test. This test is easy to apply because it merely measures the average length of sentences and words. Scholars have criticized it because there is no direct relationship between word or sentence length and comprehension. Yet if we assume that writers are acting in good faith and not trying to fool the test, it does seem to measure comprehension fairly well. In the long run, more complex and accurate computer programs will probably be available to accomplish this task.

Some Remaining Challenges

Although the Plain English Movement has made substantial progress in improving the language of consumer documents, there are other types of documents that affect the rights and obligations of the public but are still typically in legalese. These include wills, medical consent forms and consents to search, releases of liability, legal notices, and warnings. The movement still has work to be done.

Communicating with the Jury

In a sense, jurors who receive jury instructions are also consumers. And like consumers, they do not understand the legal language that is read to them very well.

Confusion and its Consequences

There is a substantial body of research showing that pattern jury instructions poorly communicate the law to the jury. Revised instructions raise the level of comprehension significantly. This is an important point, because we cannot expect jurors to follow the law when they do not understand it. Unfortunately, courts are very reluctant to deviate from tried-and-true instructions which track the language of a statute or have been approved by an appellate court, even if that approval came many decades ago. Judges who try to explain the instruction in plain language typically are overruled. Jury questions about the instruction are generally answered by simply rereading the antiquated language of the original. Yet legal accuracy is pointless if jurors do not understand the instruction very well in the first place. Perhaps the only real possibility for reform is the committees that draft pattern instructions in many states. Several such committees have indeed tried to improve comprehension, but progress has been uneven. Often change is controversial, leading to maintenance of the status quo.

Capital Instructions

Nowhere are the consequences of poor communication more dramatic than in capital cases. Constitutionally, capital juries must have guidance in carrying out their task. Because the guidance comes largely in the form of obscure jury instructions, it is often sorely lacking. For

example, many state death penalty laws instruct jurors to weigh mitigating and aggravating evidence. But mitigate is a formal word that many people do not understand, and aggravate is a legal homonym: it has an ordinary meaning (annoy) that differs in an important way from its legal meaning (a reason to put someone to death). There is evidence that many jurors do not understand these terms very well, even though they are essential in deciding whether to recommend the death penalty.

The problem is not just comprehension of individual words. A survey by Professor Hans Zeisel found that jurors did not sufficiently understand several points conveyed by the Illinois pattern instructions, including the critical point that they were to balance mitigating and aggravating factors. This evidence was offered to the federal courts in the habeas corpus petition of James Free, a condemned murderer. A federal district court was convinced that Free's jury was indeed confused, and vacated his death sentence. Before the Free case could be appealed, another inmate on Illinois's death row, the notorious serial killer John Wayne Gacy, argued that his jury had received the same instructions and that his sentence--on the grounds of the Zeisel survey--should also be set aside. He lost in the trial court, and lost again on appeal. Finally, Free's case came before the Seventh Circuit. The court rejected the Zeisel survey, in part because there had been no control group that received revised instructions. Of course, there is strong evidence that as a general matter, revision of instructions using plain language principles invariably increases comprehension. Indeed, a later study using a control group showed that revising the Free instructions resulted in significantly better understanding.

Of course, the law is complex; the research into jury instructions indicates that the ordinary public will never understand all aspects of it perfectly, even if stated in plain language. But jurors can and should understand their task much better than they now do.

Conclusion

Legal language includes some very complex linguistic practices of an ancient profession. Because legal English itself is not monolithic, and is used to attain various goals, our assessment of its usefulness will depend on a large number of considerations. Some of its features are nothing more than time-worn habits that have long outlived any useful communicative function. Other characteristics arguably serve some function, such as signaling that an event is an important proceeding, or enhancing the cohesiveness of lawyers as a group, but should be abandoned because they detract too much from the paramount goal of clear and efficient communication. In yet other cases, lawyers approach language strategically, actually preferring obscurity to clarity; obviously, such usage impedes the overall goals of the legal system and its language. More problematic are features that clearly enhance communication within the profession but mystify outsiders. Here, we may need to weigh how important it is for the lay public to understand the language at issue. In the final analysis, legal language must be judged by how clearly and effectively it communicates the rights and obligations conferred by a constitution, the opinions expressed by a court, the regulations embodied in a statute, or the

promises exchanged in a contract. While ordinary people may never understand every detail of such legal documents, our law should be stated as clearly and plainly as it can be. Democracy demands no less.

Plain Language and Plain Vocabulary



"The CEO KO'd our LOI with his MOU, and the SLA was BS for managing PNL, and the FDD was DOA, and now I'm on a PIP but next week I'm on ETO so WTF.

- **Legalese:** If the recipient has any inquest with the extract to the aforementioned particulars, the company shall be obliged in its bestow for the provision of response to any questions regarding the information, considerations or aspects to the beneficiary with the assistance of telephone.

- **Plain English:** If there are any points on which you require explanation or further particulars we shall be glad to furnish such additional details as may be required by telephone.

- **Ordinary English:** If you have any questions, please phone.

What?

- It's not 'cat sat on the mat’
- Leaflets and letters to legal documents - can be written in plain English.
- Not to look down or oversimplify.
- It doesn't mean reducing the length of your message or changing its meaning.
- It's not about banning new words, killing off long words or promoting completely perfect grammar. Nor is it about letting grammar slip.

Advantages?

- Faster to read
- Easy to read
- You get your message across more often, more easily and in a friendlier way

Keep Your Sentence Short

- 15-20 sentences
- This does not mean making every sentence the same length. Be punchy. Vary your writing by mixing short sentences like the previous one with longer ones like this one but always keep an average sentence length.
- One main idea in a sentence.
- However, at first you may still find yourself writing the odd long sentence, especially when trying to explain a complicated point. But most long sentences can be broken up in some way.

Prefer Active Verbs

- a **subject** (the person, group or thing doing the action);
- a **verb** (the action itself)
- an **object** (the person, group or thing that the action is done to).

Prefer Active Verbs

- To give an example, in the sentence 'Peter watched the television':
  - the subject is Peter (he is doing the watching);
  - the verb is watched; and
  - the object is the television (it is being watched).

Prefer Active Verbs

- Peter watched the television. - **how ordinary language is sentence written.**

- Peter, the boy from California, watched the television every Friday night. - **how plain language is written**

- The same word ‘watched’ can become a passive verb - The television was watched by Peter

Prefer Active Verbs

- Passive verbs cause several problems.
  - They can be confusing.
  - They often make writing more long-winded.
  - They make writing less lively.

Good Use of Passive

- To make things less hostile -
    - You have not paid the bill.
    - The Bill has not been paid.
- To avoid taking the blame -
    - We made a mistake.
    - A mistake was made.
- When you don't know who or what the doer is -
    - Someone picked the English team
    - The English team has been picked.
- If it simply sounds better.

Use ‘You’ and ‘We’

- Try to call the reader 'you', even if the reader is only one of many people you are talking about generally.
- Do not use words like applicant and supplier.
  - The applicant must send us the details.
  - You must send us the details.

Use words that are appropriate for the reader

- When you are talking to your reader, say exactly what you mean, using the simplest words that fit. This does not necessarily mean only using simple words - just words that the reader will understand.
- So in general, keep to everyday English whenever possible. And again, imagine talking to your reader across a table.

Instruct

Sit!

People are advised that they should sit down.

Brush your teeth.

Your teeth should be brushed.

Send it to me.

I should be grateful if you would send it to me.

Instruct

- Commands are usually considered to be harsh.
- Always use a recommending or requesting word in front of the command (Please, if you don't mind) to make it sound formal.

Avoid Nominalisation

- A nominalisation is a type of abstract noun.
- Since it is the name of any action, the performance of action is not visible
  - We had a discussion about the matter.
  - **We discussed the matter.**
  - There will be a stoppage of trains by drivers.
  - **Drivers will stop the trains.**
  - The implementation of the method has been done by a team.
  - **A team has implemented the method.**

Apologising

- If you are replying to a tricky letter or a complaint, or are dealing with a difficult problem, put yourself in the reader's shoes.
- Be professional, not emotional.
- You may have to give a firm, unwelcome answer, but be as helpful and polite as possible. If you are going to apologise, do so early.
- If the problem is your fault, say so.
- And whether it is your fault or not, try to emphasise what you can do for the other person.

PROBLEMS OF LEGAL LANGUAGE

LEGALESE

Taking the aforementioned state into consideration, the firm hereby promulgate the requirements of additional cooperation, the organisation makes it an obligation to their customers to facilitate their yearn with the assistance of telephonic communication, the customer can entreat the aid for:

a. Incorrect placement of commodity wherein the conveyancing representative(s) have consigned the merchandise to a wrong domicile,

b. Dismantling or destruction of the commodity where in the customer demands damages,

c. Confrontation or compromised with any injury, harm or trauma,

The customer has complete right to make use of the aforementioned aid of assistance.

Considering the need, for any issues related to misplacement, damage or injury. Customer can contact our customer service.

Contact Us

UNCERTAINTY

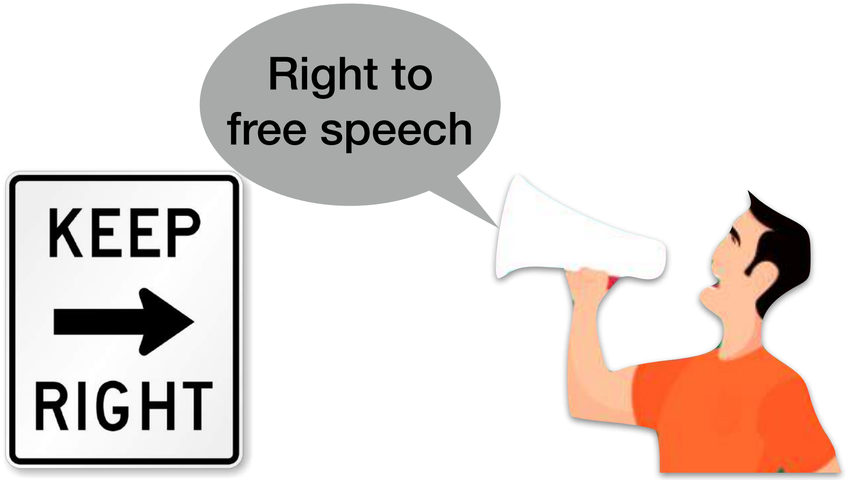
AMBIGUITY

- Law is an inexact science
- Law is dependent on language and language is uncertain
- Words in language with no definite meaning
- For eg the word right

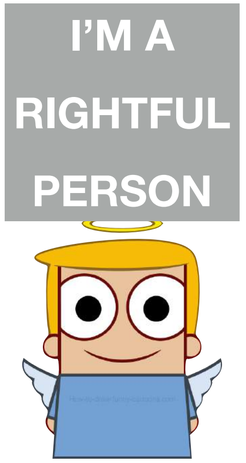
Language shows a most remarkable maldistribution of words, a great unevenness of density; for some ideas are expressible in a dozen different words and others have to be lumped together under one

GLANVILLE WILLIAMS









PROCESS OF INTERPRETATION IS EASY DUE TO THE INCOMPLETENESS OF LANGUAGE

- Human languages are imperfect and incomplete.
- Unlike a simple word having multiple meanings, it can interpreted into multiple meanings.

- Is an album a ‘book’?
- Is a bicycle a ‘carriage’?
- Is ice-cream ‘non-vegetarian’?



A blank collection photographs, stamps and pictures



a vehicle consisting of two wheels held in a frame one behind the other, propelled by pedals and steered with handlebars attached to the front wheel.



a soft, sweet frozen food made with milk and cream and typically flavoured with vanilla, fruit, or other ingredients.

CHANGE IN MEANING

- Many words change their meaning in the course of time

ASYLUM

COMMITTEE

ANIMAL

PERSON

PLANT

EMOTIVE ELEMENTS

- Illegitimate weight to a statement
- A sense of emotion shared by multiple audience.

Justice requires all moral wrongdoings to be punished

RIGHT NECESSARY REASONABLE PUBLIC POLCY

DUTY JUSTICE SUBSTANTIAL

ESSENTIAL WRONG QUESTION ARBITRARY

CAN LAW RUN ON EMOTION?

PENUMBRAL MEANING

- Words that have vague meaning
- There are many opposites
- But this doesn't mean everything is opposite to one another.
- Variation of meaning



MOTOR CAR

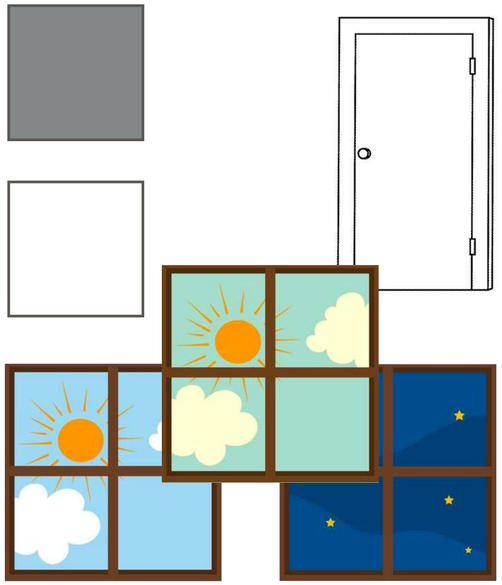
MECHANICALLY PROPELLED VEHICLE

ABOUT

NEAR

MORE

LESS



SANE DRUNK
INSANE SOBER

DEMOCRACY
DICTATORSHIP

PENUMBRAL MEANING

- Words that have vague meaning
- There are many opposites
- But this doesn't mean everything is opposite to one another.
- Variation of meaning



MOTOR CAR?

MECHANICALLY PROPELLED VEHICLE?

1800

ANY PERSON OF 18 YEARS OF AGE HAS THE RIGHT TO VOTE

WOMEN?

TRANSGENDER?

HUMPTY DUMPTY TERMS

- Words have a different meaning from the original word.
- Action - Lawsuit for a lawyer
  Action - Activity for commoner
- Other words like
  Satisfaction, Composition, Consideration, Brief, Damage etc.

USE OF JARGON

- What is jargon?
- Confuses the audience.
- For eg:
  In case of the deceased John Jenkins, the coffin of the above mentioned individual John Jenkin’s coffin
- Abstractitis - extreme form of jargon



VERBOSITY

- Two or more words are used to convey a single message.
- Long sentences
- Verbose statements

The Industrial commission shall ascertain fix, and order such reasonable standards, rules, or regulation for the design, construction, location, installation, operation, repair and maintenance of equipment for storage, handling, use, and transportation by tank truck or tan trailer of liquefied petroleum gases for fuel purpose, and for the odorization of said gases used therewith, as shall render such equipment safe.

The Industrial commission is to lay rules to ensure safety in handling of liquefied petroleum gases.

At the time of his death	When he dies
Have need of	Need
Have knowledge of	Know
Give consideration to	Consider
Give recognition to	Recognise
Make Application	Apply
Make Payment	Pay
Make Provision	Provide for

Abutting	Next to
Adequate number of	Enough
Adjacent to	Next to
Anterior to	Before
At the time when	When
Be Authorised	May
Be Binding Upon	Bind
It is directed	Shall
Or in the alternative	Or

REVISION - FORMAT OF DEED

Description of deed: Identity of the deed, nature of the deed need to be specified.

THIS DEED OF LEASE, THIS DEED OF GIFT

The description of deed should be written in capital letters

REVISION - FORMAT OF DEED

Date and Parties

The date on which it was executed.
Date should be written in full form and preferably in words.

Twenty Fourth day of October, Two Thousand and Twenty
24th day of October, 2020

REVISION - FORMAT OF DEED

Date and Parties

Mr. XYZ, age 20 years, S/o, Mr. YZ, R/o Flat No. 23, ABC Nagar, Dist. Pune (hereinafter called the seller)
Party 2 (hereinafter called the buyer)

Description of parties to the deed.

Name of the party, Age, Father's name, Occupation, Address (Last Known Address)

Underaged: Name of the party, (minor), Age, Father's name, Occupation, Address (Last Known Address)

For company - the description of parties to the deed signed and executed by the authorised person of the company.

REVISION - FORMAT OF DEED

Recitals

WHEREAS …
AND WHEREAS
AND WHEREAS etc

Narrative Recitals: Previous history, description of the property in transaction

Introductory Recitals: Describe the object for making of and execution of deed.

If there are many recitals, they can be mentioned in chronological order.

It generally starts with "WHEREAS, AND WHEREAS" in capital letters

REVISION - FORMAT OF DEED

Testatum/Witness Clause

NOW THIS DEED DECLARES AS FOLLOWS

1.
2.
3.
4.

1. Consideration of the transaction
2. Receipt of consideration
3. Description of the property

REVISION - FORMAT OF DEED

Testimonium	States that the parties have signed the deed on this particular date
	IN WITNESS WHEREOF the parties hereto signed this deed on the date first above written

REVISION - FORMAT OF DEED

Signature and Attestation	Signature and attestation of the parties and persons witnessing the execution of deed

GIFT DEED



WHAT IS GIFT DEED

- Transfer of certain movable or immovable property



DONOR

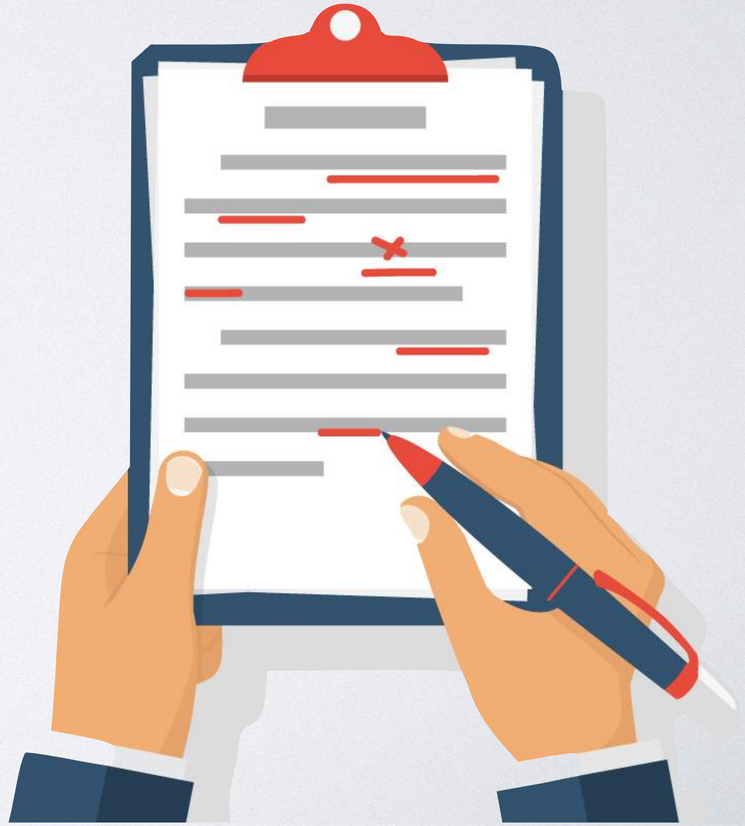


DONEE

- During the lifetime of the donor and while the donor is capable of giving.
- A gift deed is generally absolute and irrevocable.
- Never to an unborn person.

IMPORTANT CLAUSE

- Consideration Clause
- Possession of Property
- Free Will
- Detailed description about the property
- Rights and Liabilities
- Rights of the donee
- Delivery Clause



DONOR AND DONEE

Donor

The person who makes the transfer of property

Sound mind, competent to enter into the agreement

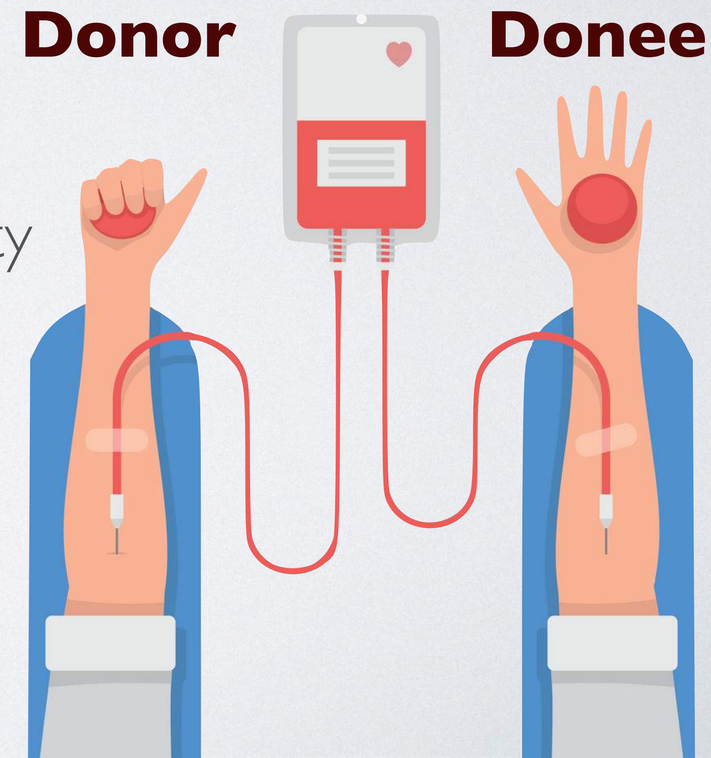
A minor cannot be donor

Donee

The person who accepts the transfer of property

A minor can be donee

In case of an onerous gift, the donee can make decision.



ESSENTIAL FOR DRAFTING

- Name of Deed
- Date of execution
- Place where the deed is to be executed
- Information of the donor and donee
- Relation between the donor and donee
- Donor should be the current owner of the property
- Details of the property
- Consideration - out of natural love and affection
- Donee/ Guardian accepting the gift
- Donee's authority over the gift
- Expense of stamp duty/ receipt
- Witnesses, signature, attestation
- Schedule of the property gifted

EXAMPLE

Description of draft

Alternative

THIS GIFT

Date of execution

THE DEED OF GIFT is made on 23rd day of September, 2020

Alternative

is made on twenty third day of September 2020

BETWEEN

Name of the party making the transfer

Shri. Himesh Kumar age 55 years, S/o Shri Ramesh Kumar, civil contractor, ABC Company, resident of 1750 Sadhashiv Peth, Pune 411030, hereinafter called the DONOR of One Part

AND

Name of the party receiving the transfer

Shri. Rakesh Kumar age 12 years, (minor) s/o Shri Kalyan Kumar, resident of 1930 Sadhashiv Peth, Pune 411030, hereinafter called the DONEE of the Other Part

EXAMPLE

Recitals

Narrative Recital, Ownership of the property

WHEREAS, the property bearing Plot No. 75, out of Survey No. 50, of the revenue village Kothrud, Taluka. Haveli, District Pune described in further details in the schedule hereunder is owned and possessed by the donor;

Relation between the donor and the donee

AND WHEREAS the donee is the grandson, i.e son's son of the donor;

AND WHEREAS the donor bears natural love and affection for the donee;

Object for making of and execution of the deed

AND WHEREAS out of such natural love and affection, the donor decided to make a gift of the said property unto the donee;

AND WHEREAS the donee is ready and willing to accept the gift of the said property, if made out by the donor;

Testatum

NOW, THIS DEED WITNESSES as follows:

Consideration and donee's authority over the gift

1. That the donor out of his natural love and affection for the donee makes a gift of the property bearing Plot No. 75, out of Survey No. 50, of the revenue village Kothrud, Taluka. Haveli, District Pune described in further details in the schedule hereunder, unto the donee TO HAVE AND HOLD the same absolutely and FOR EVER as the owner thereof.

Acknowledgement by the donee

2. That the donee does hereby accept the said gift made out to him by the donor
3. That the donor does hereby assure unto the donee that he, the donor, shall not have any right, title or interest over the said property or any thereof.
4. That the donor hereby assure unto the donee that he, the donor, has clean and clear title to the said property.
5. That the donor also assures unto the donee that all taxes, ceases, charges are duly paid out by the donor up to date, and those follow hereafter shall be borne out by the donee.
6. That all the expense of the stamp duty and registration have been borne by the donor alone.

EXAMPLE

Testatum

Description or Schedule of the property

THE SCHEDULE OF THE PROPERTY ABOVE REFERRED TO:
All that piece and parcel of land situate within the Registration Division within the local limit of Pune Muncipal Corporation, bearing Plot no 75 out of Survey No 50, admeasuring 3500 sq.ft or thereabouts, and bounded by as follows:

On or towards the East	Plot No. 16
On or towards the South	Plot No. 18
On or towards the West	Public Road
On or towards the North	Plot No. 19

Testimonium

IN WITNESS WHERE OF the parties hereto have signed hereunder at Pune the date first above-mentioned.

Signature and Attestation of the Donor and Donee

Sd/- Himesh Kumar
DONOR
Sd/- Kalyan Kumar (guardian)
DONEE

Witnesses
1. Sd/- ABC
2. Sd/- XYZ

Signature and Attestation of the Donor and Donee

EXAMPLE

EXAMPLE

THE DEED OF GIFT is made on 28th day of September, 2017

BETWEEN

Shri. Himesh Kumar age 55 years, S/o Shri Ramesh Kumar, civil contractor, ABC Company, resident of 1750 Sadhashiv Peth, Pune 411030, hereinafter called the DONOR of One Part

AND

Shri. Rakesh Kumar age 25 years, s/o Shri Kalyan Kumar, resident of 1930 Sadhashiv Peth, Pune 411030, hereinafter called the DONEE of the Other Part

WHEREAS, the property Final Plot No. 45, out of Shivajinagar, Pune city, described in further schedule hereunder was owned and possessed by the present donor and his brother.

EXAMPLE

AND WHEREAS out fo the said property, the northern portion admeasuring about 1,200 sq.m is owned by the present donor.

AND WHEREAS the donee is a nephew of the donor, i.e donor's brother's son

AND WHEREAS the donor had already accordingly put the donee in the donee in actual possession of the said property.

AND WHEREAS the donee has intentions to construct a building in the above mentioned premises

AND WHEREAS out of such natural love and affection, the donor decided to make a gift of the said property unto the donee.

AND WHEREAS the donee is ready and willing to accept the gift of the said property, if made out by the donor

EXAMPLE

NOW, THIS DEED WITNESSES as follows:

1. That the donor out of his natural love and affection for the donee makes a gift of the property bearing nal Plot No. 45, out of Shivajinagar, Pune city, described in further details in the schedule hereunder, unto the donee TO HAVE AND HOLD the same absolutely and FOR EVER as the owner thereof.
2. That the donee does hereby accept the said gift made out to him by the donor
3. That the donor does hereby assure unto the donee that he, the donor, shall not have any right, title or interest over the said property or any thereof.
4. That the donor hereby assure unto the donee that he, the donor, has clean and clear title to the said property.
5. That the donor also assures unto the donee that all taxes, ceases, charges are duly paid out by the donor up to date, and those follow hereafter shall be borne out by the donee.
6. That all the expense of the stamp duty and registration have been borne by the donor alone.

EXAMPLE

THE SCHEDULE OF THE PROPERTY ABOVE REFERRED TO:
All that piece and parcel of land situate within the Registration Division within the local limit of Pune Muncipal Corporation, bearing Plot no 75 out of Survey No 50, admeasuring 3500 sq.ft or thereabouts, and bounded by as follows:

On or towards the East	Plot No. 16
On or towards the South	Plot No. 18
On or towards the West	Public Road
On or towards the North	Plot No. 19

IN WITNESS WHERE OF the parties hereto have signed hereunder at Pune the date first above-mentioned.

Sd/- Himesh Kumar
DONOR
Sd/- Rakesh Kumar
DONEE

Witnesses
1. Sd/- ABC
2. Sd/- XYZ


Will and Testa
that I,
teen (18) years
nd decla

WILL



Declaration of intention

Voluntary posthumous disposition of property

Testamentary instrument to make disposition of their property

Of own nature and revocable during the lifetime of the maker

Confidential document

WILL

Takes effect after the death of the executant

Revocable

Can also be made for appointing executors

Intestate - inherited by his legal heirs



Testator

Testament

Codicil

No particular format

Declaration

Details of Property and Documents

Registering a Testament or Will

Attestation of the Testament or Will

Execution and Probate

- ✓ KNOW ALL MEN BY THESE PRESENTS
- ✓ I, Name of the testator
- ✓ I do hereby declare this is to be my last will and testament, providing as follows
- ✓ Proper details of properties given
- ✓ Last wish
- ✓ Testimonium
- ✓ Signature

KNOW ALL MEN BY THESE PRESENT that, I, Shri. Jay Agarwal, age 79 years, occupation - Nil, resident of 1000 Shivajinagar, Pune 411005, do hereby declare that I have not made any will or testamentary writing before, I do hereby declare this to be my last will and testament, providing as follows:

1. That I have my wife, Shri. Savita Agarwal, two sons, Rajesh Agarwal and Akshay Agarwal and one daughter Sunita Agarwal.
2. That the daughter is married and well provided for, and hence, I have not made any provision for her in this will.
3. That I have the following properties:

   (A) House Property at CTS. No. 10000 Shivajinagar, Pune

   (B) Plot of land at S. No. 125 of Kothrud, Pune

   (C) An amount of Rs. 6,00,000/- fixed deposit with Cosmos Cooperative Bank Limited, Shivanjinagar Branch.

   (D) Savings Account with Janata Sahakari Bank Limited, Shivajinagar Branch.

   (E) Gold Ornaments and jewellery worth Rs. 4,00,000/-

4. That I do hereby bequeath the said property at 100 Shivajinagar, Pune City, to my wife alone.
5. That I do hereby bequeath the said property at S. No. 125 of Kothrud Pune, to my sons equally.
6. That I do hereby bequeath the said amount Rs. 6,00,000/- in the fixed deposit to my wife and sons equally.
7. That I do hereby bequeath all the gold ornaments and jewellery to my wife alone.
8. That I do hereby bequeath all the amount in the savings account with the Janata Sahakari Bank Limited to my wife alone.

9. That it is my last wish that both my children should love their mother and pay her due respects and also take all possible care of her health till she breathes her last.

10. That it is also my last wish and will that on my death, there should be minimum and simple cremation ceremonies, and all the expenses in that behalf should be met with my said savings account.

IN WITNESS WHEREOF I have singed hereunder at Pune this on tenth day of October, Two Thousand and Twenty.

Sd/- TESTATOR

We, (1) Shri. Pawan Sharma, and (2) Shri. Manoj Sharma, the undersigned attesting witness, have seen the testator executing this will, and each of us has signed in the presence of the said testator.

Sd/- Pawan Sharma

Sd/- Manoj Sharma

WITNESSES


SALE
DEED
SALE

What is Sale Deed?

- Transfer of property between one person to another.
- Consideration is included.



VENDOR
Seller



PURCHASER/VENDEE
Buyer

- Competence of the vendor and purchaser
- It is the most important document that legally reports

  the proof for the buyer and seller.

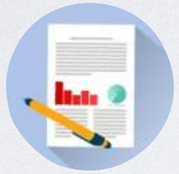
Purpose of Sale Deed



Protects the parties involved in the deed



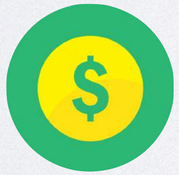
Defines the area of the property



Legal Documentation is made



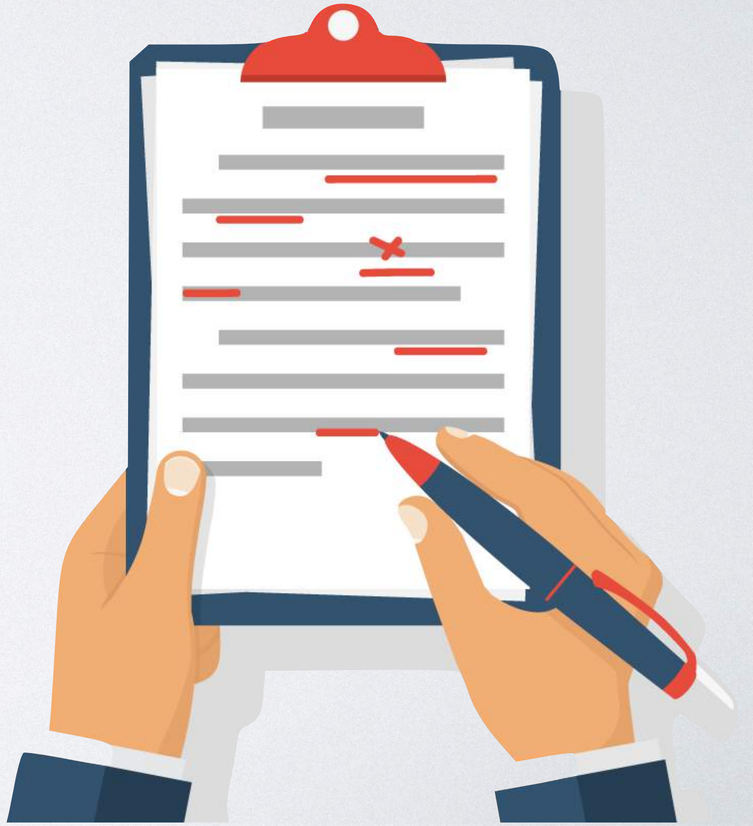
Authenticity of the property's ownership



Specification of consideration

Important Clause

- The Sale Consideration
- Possession of Property
- Free Will
- Detailed description about the property
- Rights and Liabilities
- Delivery Clause



Vendor and Purchaser

The relationship between the seller and the buyer has traditionally been labeled that of vendor and purchaser..

Vendor

The person who makes the transfer of property

Sound mind, competent to enter into the agreement



Purchaser

The person who accepts the transfer of property

Essentials for Drafting

- Name of Deed
- Date of execution
- Place where the deed is to be executed
- Information of the vendor and purchaser
- Vendor should be the current owner of the property
- Details of the property
- Consideration
- Mode of Payment
- Specified what property/good is the subject
- An agreement to sell
- Expense of stamp duty/ receipt
- Witnesses, signature, attestation
- Schedule of the property

Description of draft

Date on which the deed was made

THIS DEED OF SALE is made on the eleventh day of October, Two Thousand and Twenty

BETWEEN

Example

Name of the vendor (seller)

Shri. Akshay Sharma, age 40 years, S/o Shri Raj Sharma, occupation – agriculture, resident of 150 Hadapsar, Pune 411028, hereinafter called the VENDOR, (which expression shall, unless repugnant to the context, mean and include his heirs, executors and administrators) of the One Part

Title referred throughout the deed

Clause in case of litigation

AND

Name of the purchaser (buyer)

Shri. Rohan Agarwal, S/o Mahesh Agarwal, age 50 years, occupation – agriculture, resident of 75 Hadapsar, Pune 411028, hereinafter called the PURCHASER, (which expression shall, unless repugnant to the context, include his heirs, executors and administrators) of the Other Part.

Title referred throughout the deed

Clause in case of litigation

Example

Detailed address with Taluka and Pin Code

Description and address of the property in transfer

WHEREAS the property bearing Plot No. 15, out of Survey No. 150, of the revenue village Hadapsar 411028, Taluka Haveli, District Pune, described in the schedule hereunder, is owned and possessed by the present vendor; Possession of the owner

Intention of the vendor for sale

AND WHEREAS the vendor decided to sell and dispose of the said property;

AND WHEREAS the purchaser approached the vendor with such a proposal to purchase and acquire the said property;

AND WHEREAS the purchaser has offered the best of the possible terms unto the vendor;

Agreement to make the sale

AND WHEREAS the vendor has agreed to sell, transfer and convey the said property unto the purchaser;

AND WHEREAS the parties hereto have entered into an agreement to sell, on 10th day of August, 2020, in respect of the said property;. Date of agreement

AND WHEREAS in pursuance of the said agreement to sell, dated 10th day of August, 2020, in respect of the said property.

Example

NOW, THIS DEED WITNESSES as follows:

Vendor's decision to sell

1. That the vendor hereby conveys, sells and transfers unto the present purchaser his property bearing bearing Plot No. 15, out of Survey No. 150, of the revenue village Hadapsar, Taluka Haveli, District Pune, described in the schedule hereunder TO HAVE AND HOLD the same FOR EVER as the owner thereof.

Complete address as stated in the recital

Right of the purchaser

2. The purchaser has today paid unto the vendor an amount of Rs. 10,00,000/- (Rs. Ten Lakhs only) by way of consideration and purchase price by cheque number 6579, dated 20th day of August 2020, drawn on the Janata Sahakari Bank Limited Laxmi Road Branch, Pune, the receipt whereof the vendor hereby declares and confirms that now nothing is due from the purchaser unto the vendor towards price-price.

Consideration amount

Consideration in words

Mode of consideration

Details of the cheque

Date of the cheque

Bank name, branch, address

Acknowledgement

Vendor's right over the property

3. The vendor has assured unto the present purchaser that he, the vendor, has a clean, clear and marketable title to the said property, and the same is encumbrance free.

Example

Assurance that the property is free from litigation

4. That the vendor also assured unto the purchaser that the said property is neither subject-matter of any pending litigation, requisition or acquisition proceedings, and the vendor has absolute right to sell, transfer and convey the same.

Acknowledgement of up-to-date tax payment

5. That the vendor has already paid all the taxes, cesses, charges and assessment payable in respect of the said property up-to-date, and those accruing and becoming due hereafter shall be paid by the purchaser.

Declaration that further tax shall be paid by the purchaser

Use of property and rights of the purchaser

6. That the purchaser is purchasing for using and utilising the same for agricultural purposes, and the purchaser shall be at the liberty to use agricultural units and equipment on the said property.

Purchaser's right

Vendor releases his right from the property

7. That the vendor has today put the purchaser in actual possession of the said property, and the purchaser hereby confirms that he, the vendor, shall not have any rights, title or interest in or over the said property or any part thereof.

Purchaser gets authorised to enter his name into the records

8. The purchaser shall get his name entered in record of the rights in respect of the said property.

Expense of the stamp-duty

9. That as agreed by and between the parties hereto, all expenses of the stamp duty and registration fees have been borne out by the purchaser alone.

Example

Complete detail about the property

THE SCHEDULE OF THE PROPERTY ABOVE REFERRED TO:

Complete detailed address with local limits.

All that piece and parcel of land situated within the Registration Division and District Pune, Sub-Division and Taluka Haveli, within the local limits of Pune Zilla Parishad, Plot No. 15, out of Survey No. 150, of the revenue village Hadapsar

Size of the property

respectively admeasuring 2 hectares.

On or towards the East	Resident of 74
On or towards the South	Resident of 73
On or towards the West	Public Road
On or towards the North	Resident of 72

Landmark

IN WITNESS WHEREOF the parties hereto have signed hereunder at Hadapsar, the date first abovementioned.

Testimonium

Sd/- Akshay Sharma
VENDOR
Sd/- Rohan Agarwal
PURCHASER

Signature

Witnesses

1. Sd/- ABC
2. Sd/- XYZ



RELEASE DEED

WHAT IS A RELEASE DEED

- Removes a previous claim on an asset
- Commonly issued by a mortgage lender
- Documentation of release from a binding agreement.
- Free and clear to the owner
- For eg: Most individual purchase house with home loan



FUNCTIONS

- Reverse of a Mortgage Deed
- Restores the ownership rights
- Does not create a new or fresh title
- Registered document



Section 58 (a) of the TRANSFER OF PROPERTY ACT, 1882, defines mortgage as, "A mortgage is the transfer of an interest in specific immovable property for the purpose of securing the payment of money advanced or to be advanced by way of loan, an existing or future debt, or the performance of an engagement which may give rise to a pecuniary liability."

PEOPLE INVOLVED

- RELEASOR
- RELEASEE

Has claim

A person who releases (surrenders) a claim on an estate

Releasor has the right to sign

Satisfied with the terms

A party that is given a release

Is the owner

MORTGAGOR
MORTGAGEE



COMMONLY CONFUSED

GIFT	RELINQUISHMENT	RELEASE
Transfer without any consideration out of love	Give up legal rights over a property jointly owned	Renounces a person's claim over a specific property
Gifting a property to a relative	Co-inheritor with no intention to enjoy	Release of a property that was mortgaged
Generally a gift	Acquired ownership	Release the claim
Transfer of ownership	Transfer of ownership	Not a transfer of ownership
No consideration	May or mayn't	Consideration is necessary

FORMAT

THIS DEED OF RELEASE of the mortgaged property is made and entered into on the fifteenth of October, Two Thousand and Twenty

BETWEEN

Shri. Jay Agarwal, age 79 years, occupation - Nil, resident of 1000 Shivajinagar, Pune 411005 hereinafter called the RELEASOR, (which expression shall, unless repugnant to the context, mean and include his heirs, executors and administrators) of the One Part

Mortgagee

AND

Shri. Rohan Agarwal, S/o Mahesh Agarwal, age 50 years, occupation – agriculture, resident of 75 Hadapsar, Pune 411028, hereinafter called the RELEASEE (which expression shall, unless repugnant to the context, include his heirs, executors and administrators) of the Other Part.

Mortgagor

FORMAT

WHEREAS By a deed of mortgage dated on the fifth day of October Two Thousand and Ten, the releasee mortgaged to the releasor the property bearing Plot No. 15, out of Survey No. 150, of the revenue village Hadapsar 411028, Taluka Haveli, District Pune, described in the schedule hereunder for securing a loan of Rs. 50,00,000/- (Rupees Fifty Lakh only) with the interest to be charged at the rate of 12% (twelve percent) per annum;

AND WHEREAS at the request of the releasee the releasor has consented to release the property from his security to the releasee at the sum of Rs. 1,10,00,000/- (Rupees One Crore, Ten Lakh only) in full payment of the debt owing to him on the aforesaid deed of mortgage.

FORMAT

NOW THIS DEED WITNESSES AS FOLLOWS:

1. As Per the said Agreement and in consideration of the sum of Rs. 1,10,00,000/- (Rupees One Crore, Ten Lakh only) paid to the releasor (receipt as acknowledged by the releasor and which the releasor will credit to the debt payable to him per above deed of mortgage) the releasor hereby transfers and relinquishes to the purchaser the property the complete ownership rights and has discharged from the aforesaid deed of mortgage and thereby and all claims and demands in relating thereto.

FORMAT

THE SCHEDULE OF THE PROPERTY ABOVE REFERRED TO:

All that piece and parcel of land situated within the Registration Division and District Pune, Sub-Division and Taluka Haveli, within the local limits of Pune Zilla Parishad, Plot No. 15, out of Survey No. 150, of the revenue village Hadapsar respectively admeasuring 2 hectares.

On or towards the East	Resident of 74
On or towards the South	Resident of 73
On or towards the West	Public Road
On or towards the North	Resident of 72

IN WITNESS WHERE OF, the parties to this deed have signed hereunder the date aforementioned.

Sd/- Shri. Jay Agarwal,
RELEASOR

Witnesses
1. Sd/- ABC
2. Sd/- XYZ

NOTICE

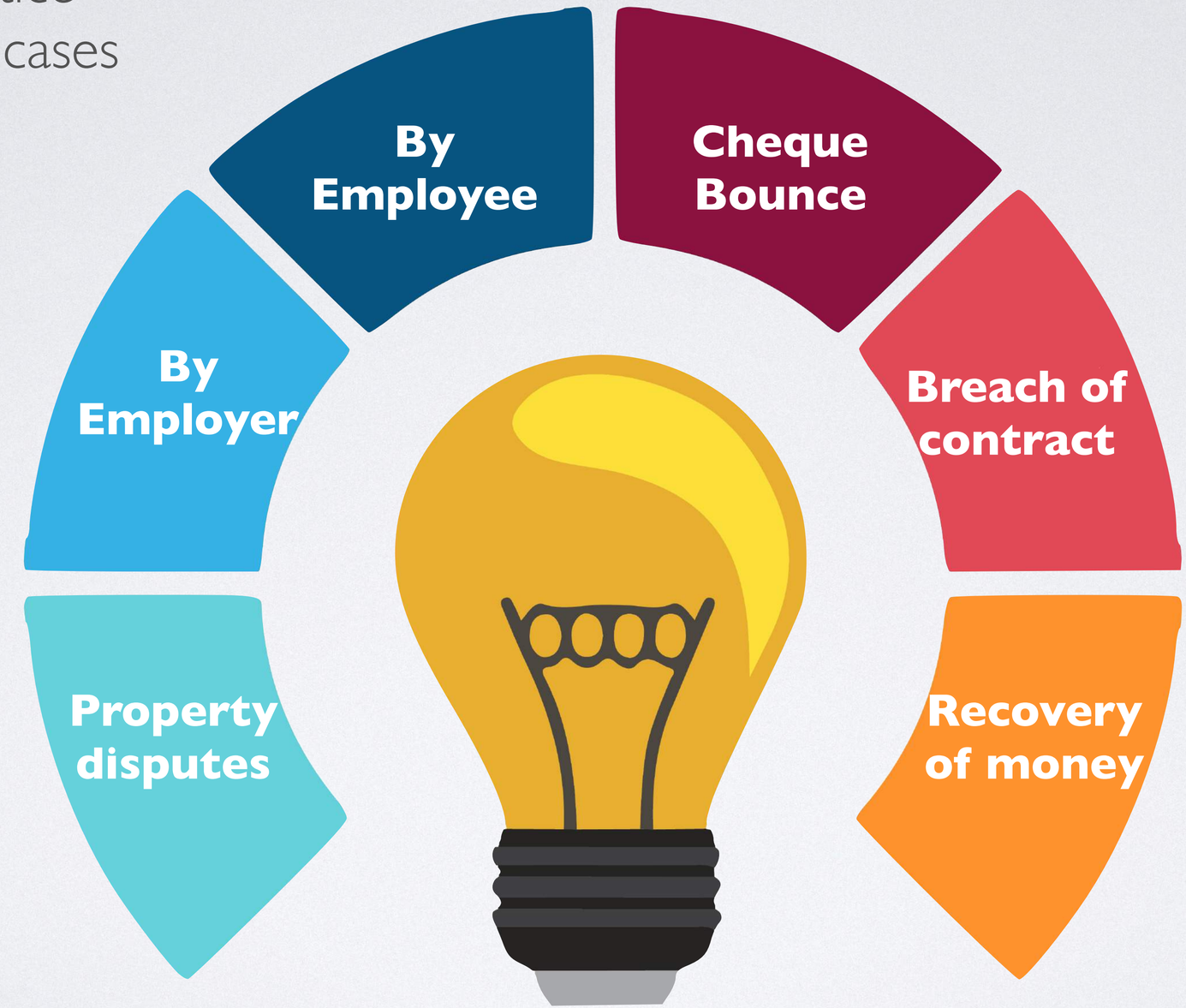
INTRODUCTION

- Before legal actions
- To inform
- Intention prior to the legal proceeding
- Make party aware of your complaint
- To deal with fairness - To be notified
- Party can take action to defend self



WHEN?

Mostly a legal notice
is sent in following cases



ESSENTIAL

- Specific format is available
- All required facts
- All necessary details
- Relief laws under which the relief is being sought
- Notice on failure to meet
- Signature of the advocate

FILING

- Plain paper or a letter head of an advocate
- Hire a civil lawyer
- Language should be understood




ADVOCATE
NOTICE

Advocate Letterhead

Name Advocate
Qualification/Designation

Address
Date

NOTICE

REGISTERED A.D.

To,
NAME

Salutation

For the client, I have to address the following

1. Introduction
2. Grievance 1
3. Grievance 2

Yours faithfully,
NAME OF THE ADVOCATE

ABC Advocates and Association

Ajay B Chaudhary,
M.A. (Eng); LL.M; D.T.L.

1000, Shivajinagar,
Pune-411005
Phone: 0202600000

Date: 24 Oct, 2020

NOTICE

REGISTERED A.D.

To,
Shri. Rahul Singh
250, Shivajinagar,
Pune-411005

Sir,

Under instructions from and on behalf of my client, Shri. Ram Sharma, of 250, Shivajinagar, Pune-411005, I have to address you as follows:

Introduction to the grievance,

1. That the property bearing the address 250, Shivajinagar, Pune-411005, is owned by my client Details needed to mention the grievance.
2. That in the said property you are a monthly tenant occupying two rooms on the ground floor admeasuring about 480 (four hundred and eighty) sq.ft.
3. That the month of your tenancy is according to the English calendar, commencing on the first day in a month and ending on the last day of the same month. Relation between the notice maker and the receiver.
4. The monthly rent of the premise occupied by you is Rs. 200/- (Rupees Two Hundred) exclusive of all other taxes and charges.

5. That since the month of August 2020, you have not paid the rent unto my client, and you have, thus, become a defaulter within the meaning, provisions and interpretation of the Maharashtra Rent Control Act 1999.
6. That without the consent of the client, you have also erected on the said premise a permanent structure by constructing and providing therein a prayer space.
7. That you are well aware that the family of my client consists of as many as ten members, and the premise in his occupation being inadequate, my client requires the said premises for his personal *bonafide* occupation.
8. That you purchased a spacious residential flat in the Aum Cooperative Housing Society, Sr. No. 56, Kothrud, Pune, and now you do not require the premise of my client, and you have not been using and occupying the said premise for the last five years.
9. That since you have not been occupying and using the said premises during this period, you have unauthorisedly and illegally inducted some other person as a sub-tenant to reside in the said premise.
10. That the said sub-tenant has been causing annoyance and nuisance to the neighbouring occupiers, and they have serious complaint against them.
11. That from the total behaviour on your part, my client have come to a tacit conclusion that you are neither in need of the accommodation for yourself or your family, much less in the said premises, nor interested to use the same, and thus, you are liable to vacate the said premise and my client is legally entitled to recover the possession thereof from you.

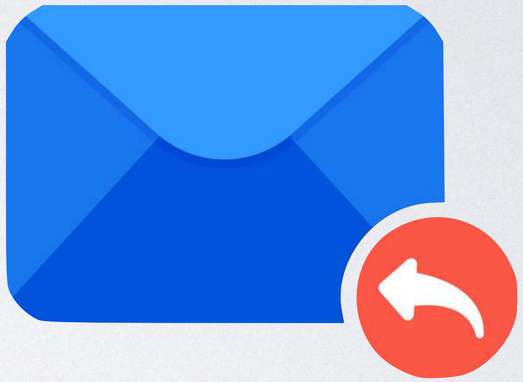
12. That in the circumstances, my client does hereby terminate your tenancy, and you are, hereby called upon to vacate the said premise and handover the vacant and peaceful possession thereof unto my client by the end of November, 2020, failing which, my client will be constrained to take against you, an appropriate legal action, which please note, and in that event, the total responsibility as to the costs and consequence of such action shall be that of yours, which please further note.
13. That as the adamant and illegal behaviour part has necessitated this notice, you are hereby charged with the cost of Rs. 1000, which please lastly note.

Yours Faithfully

(AJAY B CHAUDHARY)
Advocate

REPLY

- Should reply to the notice as soon as possible
- Not mandatory
- Date of the notice should be mentioned
- Name of the parties should be mentioned
- Should be addressed to the advocate
- Each and every accusations should be replied
- Clarifications should be specific



Advocate Letterhead

Name Advocate
Qualification/Designation

Address
Date

REPLY-NOTICE

REGISTERED A.D.

To,
Advocate

Salutation

Reply to the notice, for the client,
I have to address the following

1. Introduction
2. Reply Grievance 1
3. Reply Grievance 2

Yours faithfully,
NAME OF THE ADVOCATE

EFG Advocates and Association

Govind D Chaudhary,
M.A. (Eng); LL.M; D.T.L.

1001, Shivajinagar,
Pune-411005
Phone: 0202600001

Date: 30 Oct, 2020

NOTICE-REPLY

(REGISTERED A.D.)

To,
Ajay B Chaudhary,
Advocate
1000, Shivajinagar,
Pune-411005

Sir,

Your notice, dated 24 Oct, 2020 given by you on behalf of your client Shri. Ram Sharma, 250 Shivajinagar, Pune, and addressed to my client Shri. Rahul Singh, 250 Shivajinagar, Pune has been in my hands with instructions to reply thereto as follows

1. That the contents of para 1 of your notice is true and correct, and hence no comments.
2. That the contents of para 2 of your are likewise notice is true and correct, and hence call for no comments.
3. That the content of para 3 of your notice are also true and correct, and hence admitted by my client.
4. That the contents of para 4 of your notice are partially true and partially misleading, and my client makes it clear that the said about of rent is inclusive of all other taxes and charges.
5. That the content of para 5 of your notice is totally false and frivolous, and while denying the same, my client states that as your client refused to accept the monthly rent, my client has always been sending the amounts towards the same by money order, and hence, my client has never become a defaulter within the meaning, interpretation and provision of law.
6. That the content of para 6 of your notice to the effect that my client has erected any permanent structure in the premise is totally false and hence denied by my client in toto.
7. That the content of para 7 of your notice to the state that my client has purchased any flat in the so-called society amount to sheer piece of fabrication on the part of your client, and my client makes it very clear that it is your client alone, and not mine, who has constructed a considerably large bungalow in Kothrud, and for the last three and a half years or so, your client has also shifted his own residence there.

1. That the property bearing the address 250, Shivajinagar, Pune-411005, is owned by my client
2. That in the said property you are a monthly tenant occupying two rooms on the ground floor admeasuring about 480 (four hundred and eighty) sq.ft.
3. That the month of your tenancy is according to the English calendar, commencing on the first day in a month and ending on the last day of the same month.
4. The monthly rent of the premise occupied by you is Rs. 200/- (Rupees Two Hundred) exclusive of all other taxes and charges.

8. That the contents of para 8 of your notice to the effect that my client has sublet the said premises are imaginary and false, and hence denied by my client categorically.
9. That the content of para 9 of your notice regarding the so-called annoyance and nuisance are false, and since they are the invention of your client, my client does hereby deny the same.
10. That my client furthermore adds that since your client has himself constructed a new bungalow and already shifted his residence there, he does not require any premise for his personal *bonafide* occupation, much the less premise in the possession of my client.
11. That in the circumstances, you are herby requested to assess your client of that he has no right or authority to terminate the tenancy of my client and that my client is not liable to vacate the premises, and also that he has no cause to take any legal action against my client, and if, despite all these facts, your client were choose to do so, he shall be doing so at his own responsibility as to the cost and consequences, and in that event, you client shall have to hold responsible none but himself for his own legal action, which please ask your client further to note.

12. That my client is not liable to pay any cost of the said notice, which please ask your client also to note.
13. That as the said illegal and unwarranted notice has necessitated this notice-reply, your client is hereby charged with its costs, i.e. Rs. 1000/- which please as your client lastly to note.

Yours Faithfully

(GOVIND D CHAUDHARY)
Advocate

Notice from husband to wife

ABC *Advocates and Association*

Ajay B Chaudhary,
M.A. (Eng); LL.M; D.T.L.

1000, Shivajinagar,
Pune-411005
Phone: 0202600000

Date: 10 Feb, 2020

NOTICE

REGISTERED A.D.

To,
Smt. Pooja Patel
250, Kothrud,
Pune-411038

Ma'am,

Under instructions from and on behalf of my client, Shri Rajesh Patel, of 55, Shivajinagar, Pune 411005, I have to address you as follows:

1. That you are a legally wedded wife of my client, your marriage having been solemnised at Mumbai on 31st December 2017 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 Rani, born on 25th March, 2019.

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 without any mutual understanding with 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 22 Jan,2020, when your paternal uncle Mr. Ram Patel had come to Pune, you left the house of my client under 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 22 Jan,2020 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 very inappropriate of you.
8. 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.
9. 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.

10. 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

(AJAY B CHAUDHARY)
Advocate

Qualities of a Lawyer

Lawyering Skills for Professional Legal Education

Good Voice and Communication Skills

Lawyer or advocates must possess excellent communication skills, both oral and written. To argue with more persuasiveness before the Honourable Judge(s) in a Court of Law, speaking with fluency efficiently and effectively is a skill that can be learned and developed during the time in pursuance of the graduation while indulging in extra-curricular activities like, Moot Court(s), Youth Parliament and various competitions.

As if the activities built the communication skills of an individual in writing by researching on various topics and oral by presenting that conducted research before the Judge or even to the public at large.

Well-spoken and be expressive being an essential skill that a great lawyer or Advocate possesses. A critical element like public speaking and addressing a Court of Law, a lawyer or Advocate must be flawless and magnificent; Public speaking is a skill which can be developed by acknowledging the fact that one correctly and genuinely want to work upon his this skill.

Judgement and Analytical Skills

It is the skill to make, draw or reach the logical and logical conclusions from the limited information provided and received. Anticipate and spot the possible event(s) and happening(s), analyze the positive and negative areas of the case to prepare the same in such a manner that is beneficial and in the favour and taken into consideration the interest of the client.

Being involved and as a part of the legal industry, a lawyer or Advocate must possess a distinctive attribute of analytical skills as if to crystallize the information received either, half or wrong. A lawyer or Advocate must be able to analyze the events by using the critical method of analyzing.

Another most crucial skill needed to be a good lawyer or Advocate is the ability to research as quick as lightning, also, to be ready, the research and approach towards the same must be valid and efficient taken into consideration the legal strategies which satisfy and safeguards the interest of the clients.

Practical Wisdom

A good lawyer or Advocate must have the capacity and ability to understand the topics in its deepest sense and essence form, in lightning speed to understand the numerous things simultaneously, the client, case, remedy, and justice he wishes to seek, or likewise.

Not only enquiring but, inquiring and analyzing the appropriate provisions are pointed out and implied in a particular case, so this is done, in a smoother way as if a lawyer or Advocate acquires the skill of enquiring.

Confidence

Confidence, need time to be built, it is one part of the client to have and moreover on his lawyer or advocate to build confidence, and this should only be done and visible if the lawyer or Advocate maintains the dignity, integrity, and honour of this noble profession. In all professional functions a lawyer should be competent, prompt and diligent. A lawyer should maintain communication with a client concerning the representation. A lawyer should keep in confidence information relating to representation of a client except so far as disclosure is required or permitted by the Rules of Professional Conduct or other law.

As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law and work to strengthen legal education. In addition, a lawyer should further the public's understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority.

FIGURES OF SPEECH



RHETORIC

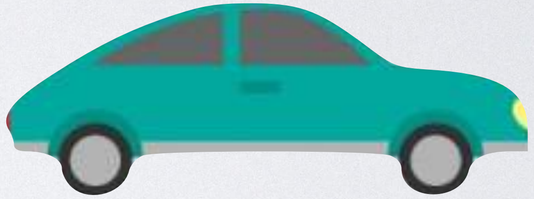
- Ancient art of persuasion
- Presenting and making your views convincing and attractive to your readers or audience.
- classical world, rhetoric was considered one of the most important school subjects

Euphemism

EUPHEMISM

- Harmless word or expression used in place of an offensive term or suggest something unpleasant
- To refer to taboo topics

USED CARS



CERTIFIED PRE-OWNED MOTOR CARS

Purpose

- To avoid directly addressing some subjects
- To mitigate, soften or downplay the gravity of large-scale injustices
- May be used as a rhetorical strategy



American soldiers during World War I

World War I

SHELL SHOCK

World War II

BATTLE FATIGUE

Korean War

OPERATIONAL EXHAUSTION

Vietnam War

POST-TRAUMATIC STRESS DISORDER

George Carlin
1937-2008



- She's between jobs.
- He's on the streets.
- Friendly fire.
- She's passed away.
- It wasn't up to scratch.
- Maybe they won't fit you.



Hyperbole

She stole my heart



- I am so hungry I could eat a horse.
- I had a ton of homework.
- He's as skinny as a toothpick.
- Her brain is the size of a pea.
- It was so cold, I saw polar bears wearing hats and jackets.
- I’m dying of laughter.

LOST DOG



"LUCKY"

REWARD 2000 BAHT
CALL 0852162608

IRONY

- Words convey a meaning that is opposite of its literal meaning
- It creates complexity in the sentence, one wants to say something but means another

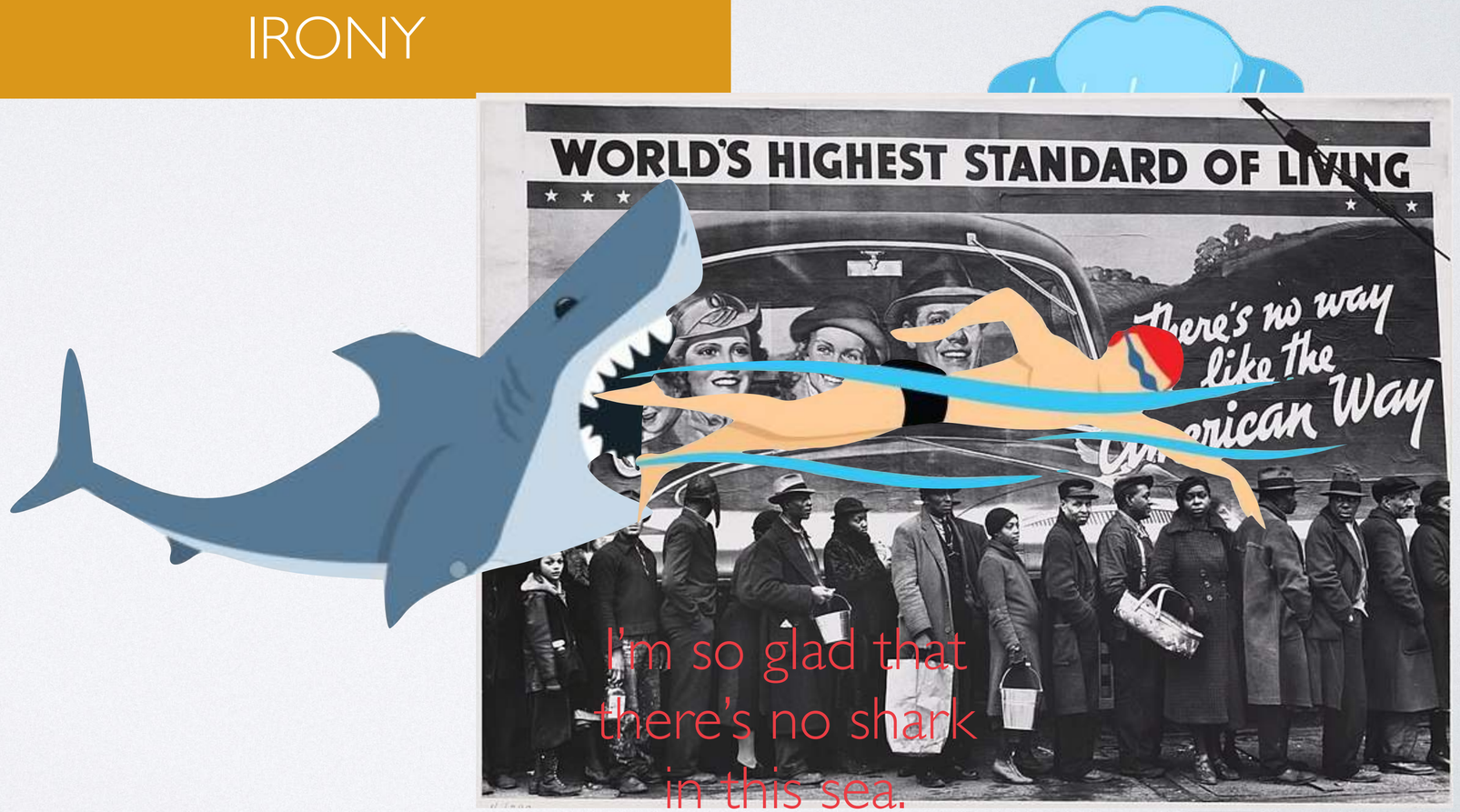
IRONY

Dramatic

When something happens and the person within the situation is unaware of the true reality.

When a person says the opposite of what they mean.

When a person says something to express sarcasm.



IRONY

- Words convey a meaning that is opposite of its literal meaning
- It creates complexity in the sentence, one wants to say something but means another

IRONY

Verbal

When a person wants to express something using speech which says the opposite of what they mean.

Situational

When the situation does not have the outcome which was expected in the first instance

Dramatic

When something happens and the person within the situation is unaware of the true reality.



Just a casual statement with opposite meaning.

A casual statement with opposite meaning intended to hurt someone

Simile

SIMILE

- A direct comparison that is made between two things
- The compared items must have something in common

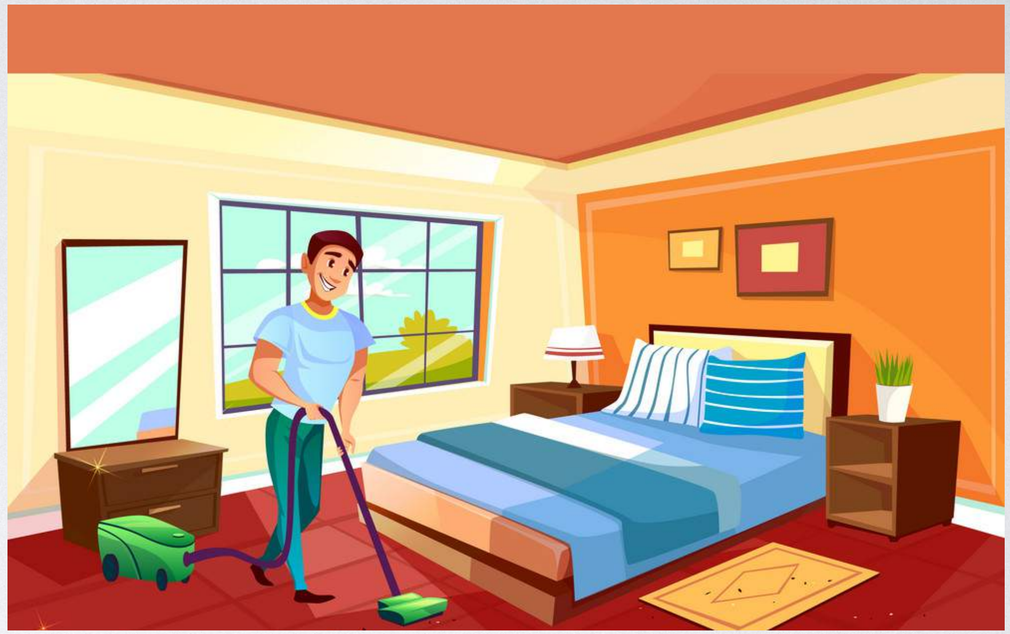
Uses

- To make statement more creative and artistic
- Gives more emotional and complex feel of comparison

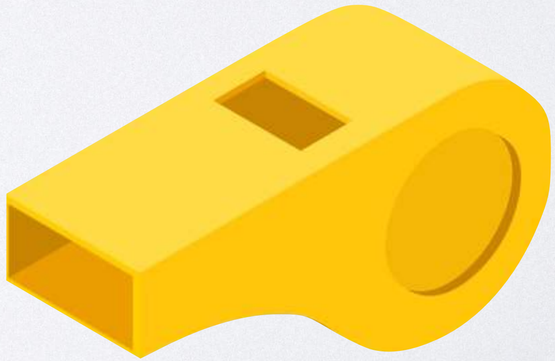


They fought like cats and dogs.

- You were like a lion in the battle.
- They fought like cats and dogs.
- He is as funny as a barrel of monkeys.
- He is as strong as an ox.
- Your explanation is as clear as water.
- Watching the show was like watching grass grow.



This house is like a clean whistle.





SIMILE

Ben is like a giraffe

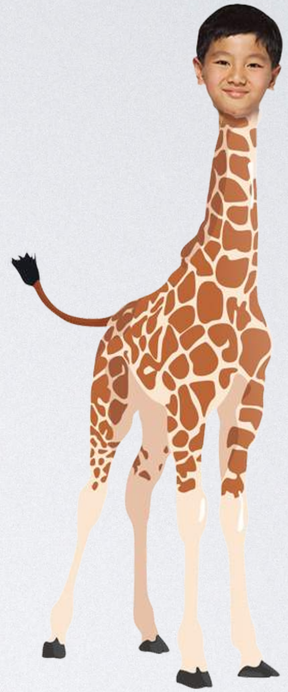


METAPHOR

Ben is a giraffe.

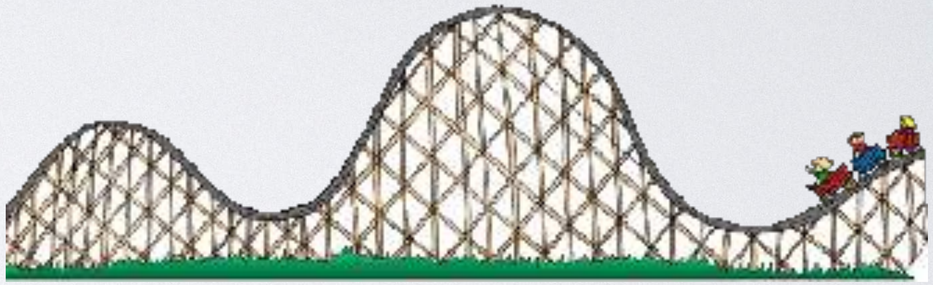
METAPHOR

- An implied comparison that refers to one thing by mentioning another
- May provide (or obscure) clarity or identify hidden similarities between two ideas



Ben is a giraffe.

- The snow is a white blanket.
- He is a shining star.
- Her long hair was a flowing golden river.
- The calm lake was a mirror.



Life is one long roller coaster.

SIMILE



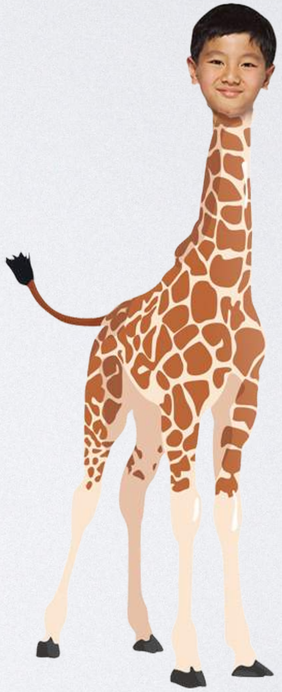
Ben is like a giraffe

HYPERBOLE

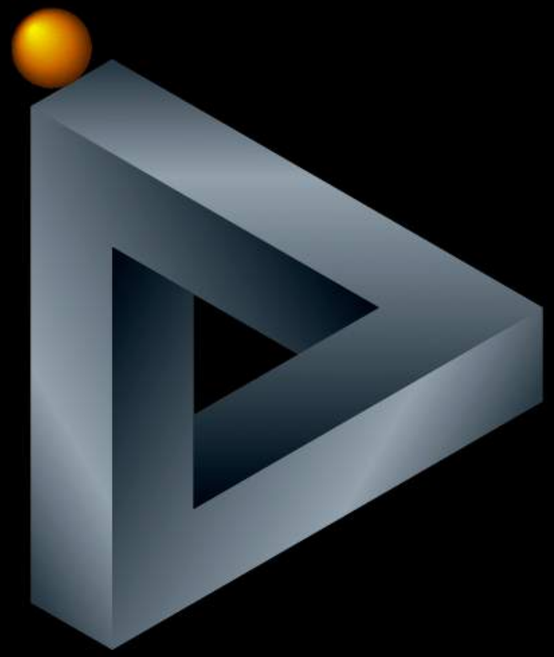


Ben is as tall as a giraffe.

METAPHOR



Ben is a giraffe.



Paradox

PARADOX

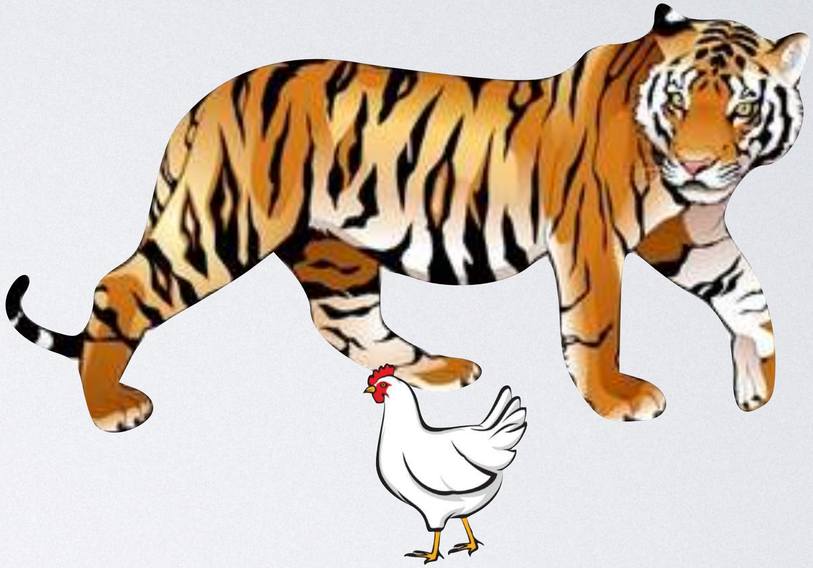
- An antinomy, is a logically self-contradictory statement or a statement that runs contrary to one's expectation.
- Is that they sound reasonable.
- Uses general statement



Child is the father of man

PARADOX

- Nobody goes to Murphy's Bar anymore — it's too crowded.
- A time traveler goes back in time and murders his own great-grandfather.
- Save money by spending it wisely.
- "I can resist anything but temptation."



"All animals are equal, but some animals are more equal than others"

Synecdoche

SYNECDOCHE

- Part of something is used to signify the whole, or vice-versa.
- Normal tongue to give a substitution for ease of communication



The strings were praised by the audience.



I have 5  to feed

so, I have to sell my 

to earn 

SYNECDOCHE

- The German boots have entered USSR.
- The captain screamed, “All hands on the deck.”
- We’ve hired hands in our company.
- The world didn’t treat him well.
- The restaurant we visited yesterday was lovely.

I have 5  to feed

so, I have to sell my 

to earn 

Understatement

UNDERSTATEMENT

- Represent something as less than what it is.
- The emotion is minimalized or made to seem less important.

Polite: This type of understatement can be used in difficult situations when you may disagree with someone's opinion but still want to remain polite. For example, when talking politics and you and a friend are on completely opposite sides, but you simply say, "I think our opinions are slightly different on this matter." Or, if someone asks you to describe someone who is very short, you say, "Well, he's not tall."

UNDERSTATEMENT

Comedic: This type of understatement adds humour to an otherwise serious situation. For example, there is a hurricane at your vacation home and there is most likely severe damage to the house. You say, "At least the plants will get watered."

Modest: This type of understatement is used instead of bragging or boasting about something. For example, winning your first trophy and saying it was "not a big deal" when it really was a big deal.

Polite: This type of understatement can be used in difficult situations when you may disagree with someone's opinion but still want to remain polite. For example, when talking politics and you and a friend are on completely opposite sides, but you simply say, "I think our opinions are slightly different on this matter." Or, if someone asks you to describe someone who is very short, you say, "Well, he's not tall."

UNDERSTATEMENT

- Your leg is broken in three pieces, so it is going to be a bit sore for a while.
- I just need to rest my eyes for a minute.
- Deserts are sometimes hot, dry, and sandy.
- I didn't sleep yesterday, I am a little sleepy.



I sense some tension between them.

Is earth flat?

Changing position of sun and moon

Ships sink in the horizon

There's no edge

Photos from reliable source

Different time zone

Does the water fall at the edges?



LOGIC

LOGIC

Greek word logos

word

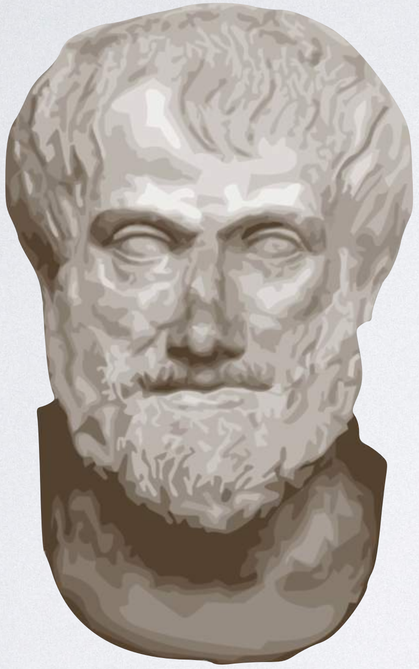
reasoning

- systematic study of valid rules of inference
- reason
- intellectual
- dialectical
- argumentative

All chocolates are sweet
Diary Milk is a chocolate
Therefore Diary milk is sweet

HISTORY

Aristotelian Logic



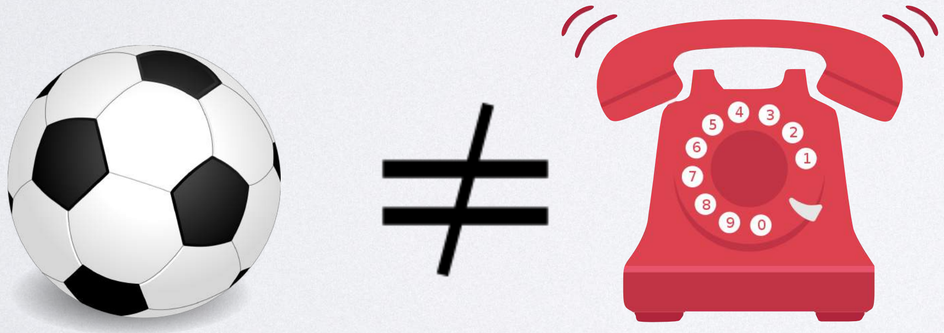
- first to systematically study and catalogue the rules of correct logical reasoning
- His logic is important because it dominated all western thought, including scientific thought, until the 19th century CE
- logic is still a powerful tool used to teach reasoning skills in numerous academic disciplines.

ARISTOTELIAN LOGIC

Law of Identity

- each thing is inseparable from itself and its being one

just meant this



A thing is just itself and not something else

Eg: a soccer ball is a soccer ball and not a telephone

ARISTOTELIAN LOGIC

Law of Contradiction

- the same attribute cannot at the same time belong and not belong to the same subject and in the same respect



Eg: my cup cannot be blue and not-blue at the same time

ARISTOTELIAN LOGIC



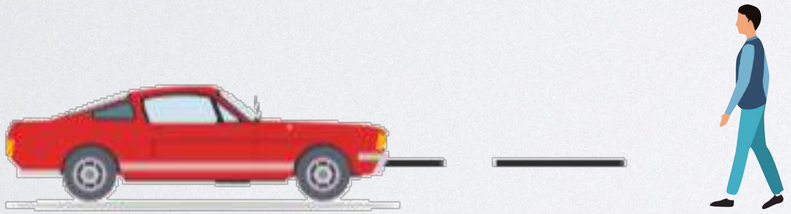
Law of the excluded middle

- there cannot be an intermediate between two contradictories, but of one subject we must either affirm or deny any one predicate
- A statement about a topic must either be true or false.
- It cannot be both, i.e. there is no middle between them. It cannot be neither true nor false.

ARISTOTELIAN LOGIC

Reflection

- he laws of logic are not man-made prescriptions – but are ‘rules of reality,’
- They are ‘necessary’ (unchangeable, non-arbitrary)



Eg: Traffic laws are normative, It can change.
it is true that either there is or there is not a car coming towards you as you cross the street; or there is no car coming towards you as you cross the street.
It can’t be both are true or neither.

ARISTOTELIAN LOGIC

Reflection

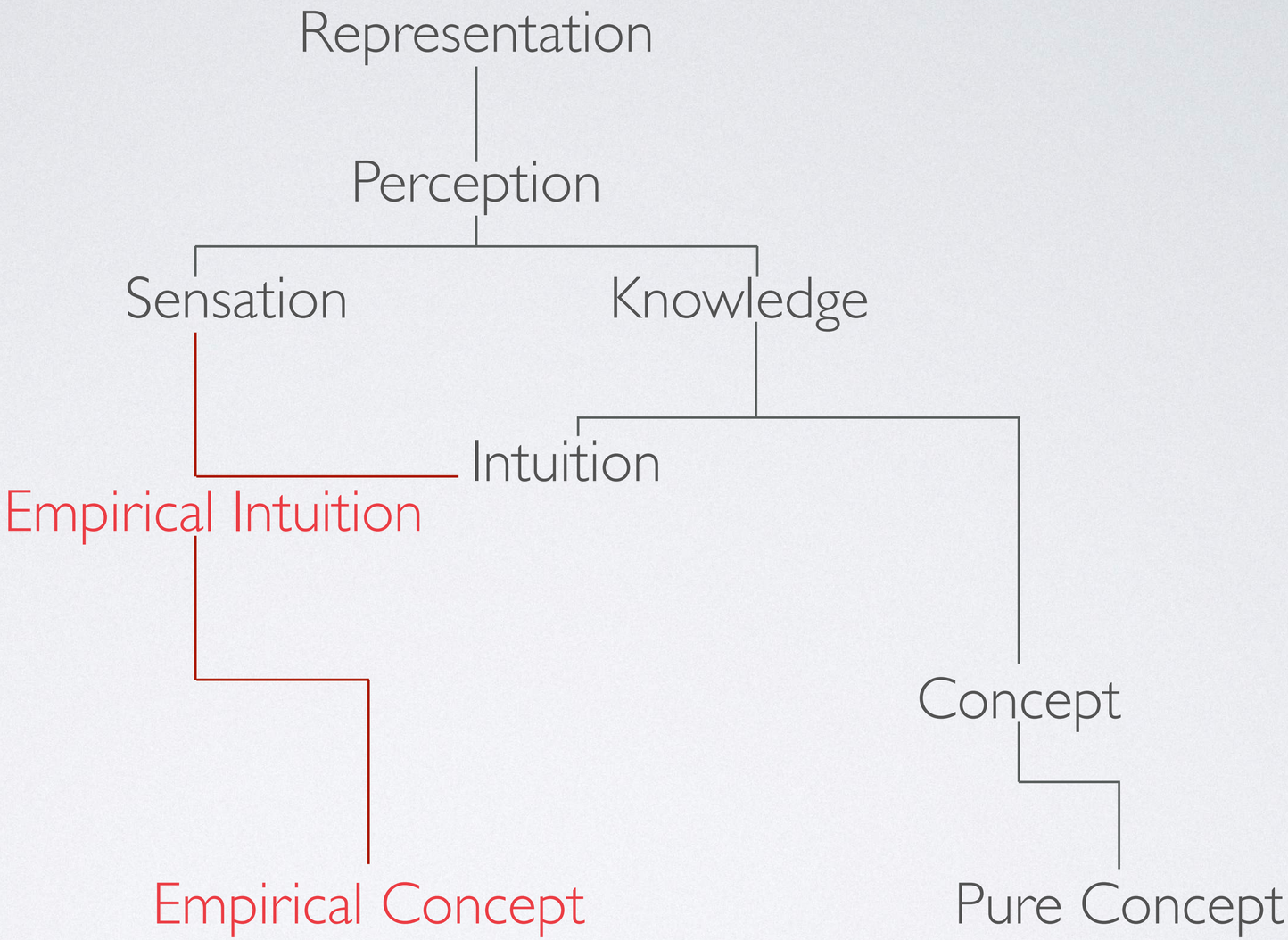
- Laid the basis for scientific progress which requires careful, systematic, step-by-step habits of thinking.
- Inquiring, evaluating, comparing and contrasting and drawing conclusions
- Learn to evaluate the validity of their own thoughts.
- Orderly critical, and objective thought can give us knowledge about reality.
- Syllogism

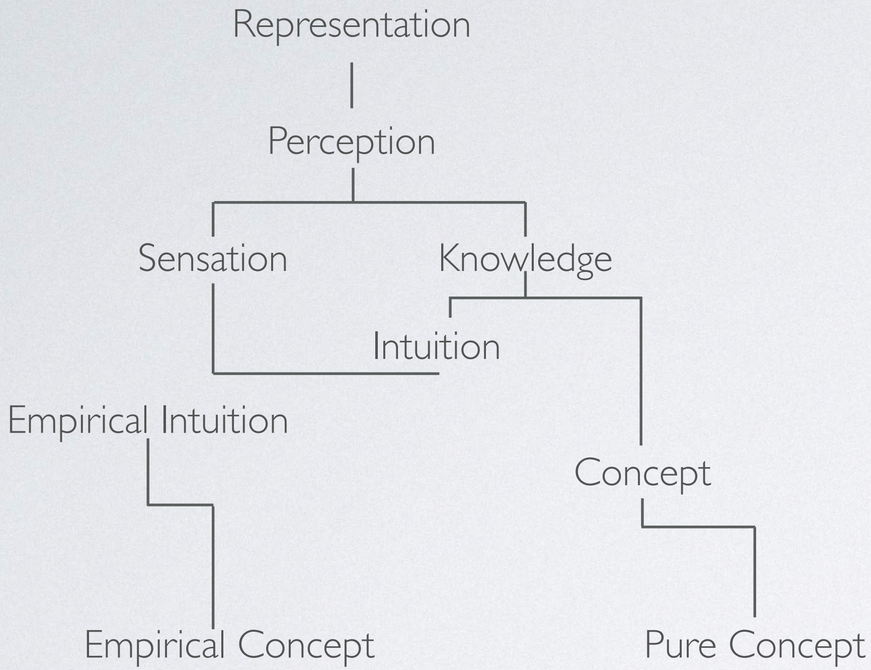
HISTORY

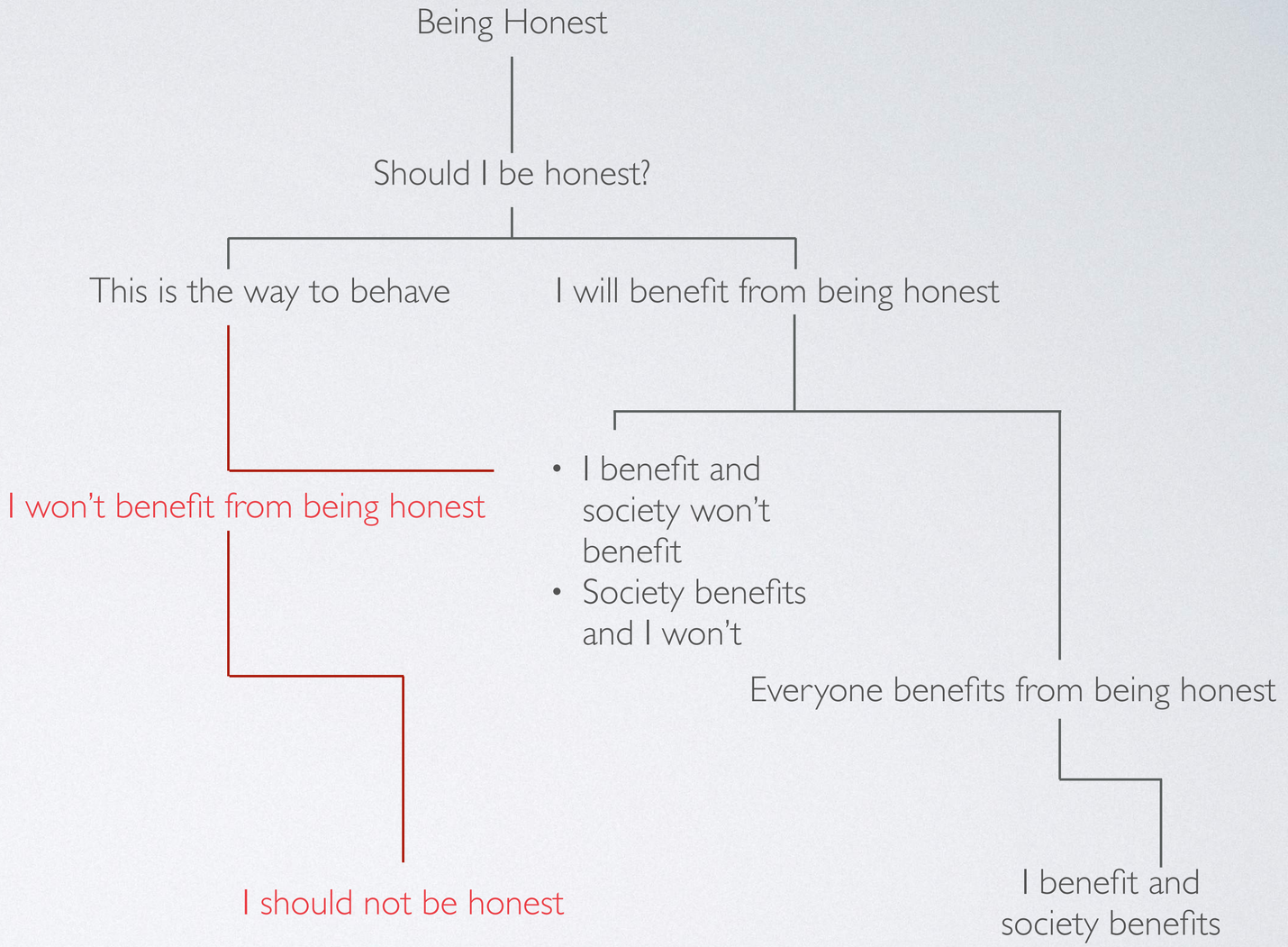
Immanuel Kant



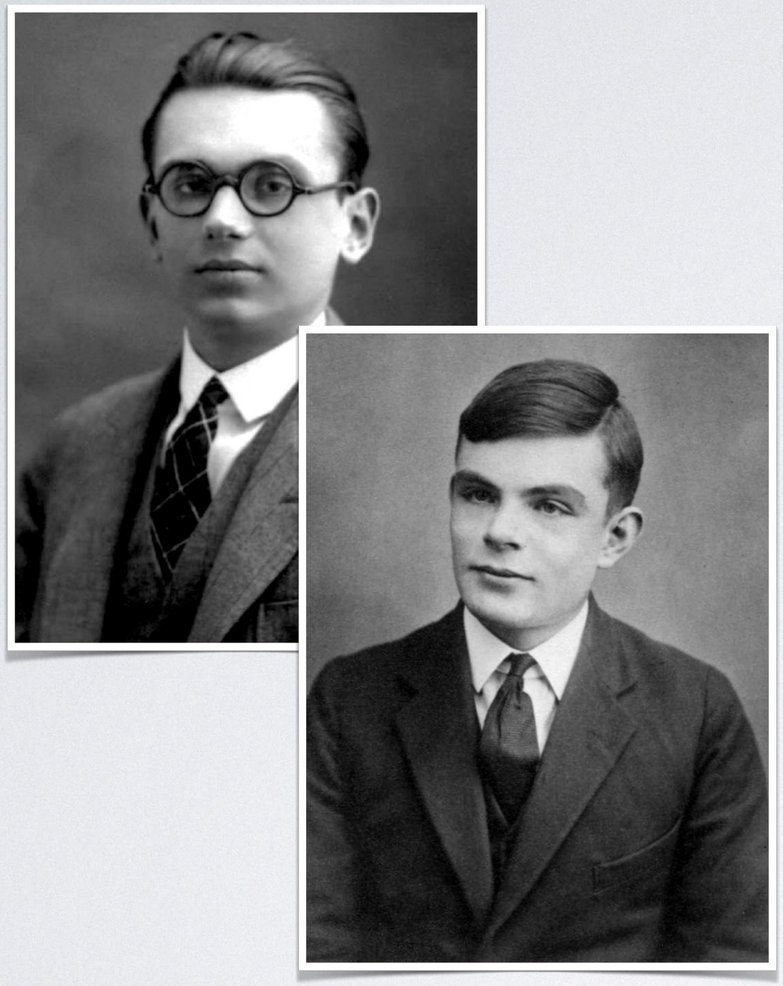
- Knowledge springs from two sources:
    - the capacity of received impressions
    - the power of knowing an object or state of affairs
- Both [intuitions and concepts] are either rational or empirical
- Logic is a sequence of understanding through intuition and knowledge


Representation
Perception
Sensation
Knowledge
Intuition
Empirical Intuition
Concept
Empirical Concept
Pure Concept


Representation
Perception
Sensation
Knowledge
Intuition
Empirical Intuition
Concept
Empirical Concept
Pure Concept


Being Honest
Should I be honest?
This is the way to behave
I will benefit from being honest
I won't benefit from being honest
• I benefit and society won't benefit
• Society benefits and I won't
Everyone benefits from being honest
I should not be honest
I benefit and society benefits

HISTORY



Kurt Gödel and Alan Turing

Mathematisation

- Techniques of mathematics were applied to logic
- Used for aptitude test, IQ analysis etc.
- Graphic analysis of complex subjects
- What comes after

A-C-E-G

2+3=35

3+4=47

4+1=15

2+5=57

6+3=?

$$\vdash :. \alpha, \beta \in 1 . \supset : \alpha \cap \beta = \Lambda . \equiv . \alpha \cup \beta \in 2$$

$$\vdash . *54{\cdot}26 . \supset \vdash :. \alpha = \iota'x . \beta = \iota'y . \supset : \alpha \cup \beta \in 2 . \equiv . x \neq y .$$

$$[*51{\cdot}231] \qquad \equiv . \iota'x \cap \iota'y = \Lambda .$$

$$[*13{\cdot}12] \qquad \equiv . \alpha \cap \beta = \Lambda$$

$$\vdash . (1) . (2) . *11{\cdot}11{\cdot}35 . \supset$$

$$\vdash :. (\exists x, y) . \alpha = \iota'x . \beta = \iota'y . \supset : \alpha \cup \beta \in 2 . \equiv . \alpha \cap \beta = \Lambda$$

$$\vdash . (2) . *11{\cdot}54 . *52{\cdot}1 . \supset \vdash . \text{Prop}$$

From this proposition it will follow, when arithmetical addition ha
ed, that $1 + 1 = 2$.

LOGIC

- Gathering of data - through observations, experiments
- What to do with this data?
- Draw conclusion - to prove right or wrong
- What are arguments?
    - Arguments are composed of more than one premises and one conclusion

PREMISES

What we presuppose

CONCLUSION

What we conclude from the premises

PREMISES AND CONCLUSION

- An argument is a set of at-least 2 declarative statement
- These statements form a conclusion
- Two premises and one conclusion is the basic structure.

Valid argument:
Conclusion follows the premises

✔ No medieval king had absolute power over his subjects.

✔ Louis VII of France was a medieval king.

✔ So, Louis VII of France did not have absolute power over his subjects

PREMISES AND CONCLUSION

- An argument is a set of at-least 2 declarative statement
- These statements form a conclusion
- Two premises and one conclusion is the basic structure.

Invalid argument:

Argument with false premises or false conclusion or invalid sequence

✓ No medieval king had absolute power over his subjects.

✓ Louis VII of France was a great horseman. ✗

✗ So, Louis VII of France did not have absolute power over his subjects ✓

PREMISES AND CONCLUSION

- An argument is a set of at-least 2 declarative statement
- These statements form a conclusion
- Two premises and one conclusion is the basic structure.

Invalid argument:

Argument with false premises or false conclusion or invalid sequence

✔ No medieval king had absolute power over his subjects.

✔ Donald Trump was a medieval king. ✘

✔ So, Donald Trump did not have absolute power over his subjects ✘

SYLLOGISM



SYLLOGISM

an instance of a form of reasoning in which a conclusion is drawn from two given or assumed propositions (premises)

a common or middle term is present in the two premises but not in the conclusion

- all dogs are animals
- all animals have four legs
- therefore all dogs have four legs



SYLLOGISM

A syllogism is an inference drawn in which one proposition (the conclusion) follows of necessity from two others (known as premises)

It is important to assume the statements given to be true and then move forward with the questions.

Syllogisms consist of three things

Syllogisms

consist of three things

MAJOR PREMISES

general principle. (Universal principle or premise)

MINOR PREMISES

specific statement.

CONCLUSION

follows from applying the major to the minor.

- There are only three terms in a syllogism (by definition)
- The quantity of a term cannot be greater in the conclusion. Nothing can be added in order to derive a logical conclusion.
- The middle term is not in the conclusion (by definition)
- The middle term must be universally quantified in at least one premise-you cannot deduct anything from particular observations
- At least one premise must be affirmative.
- If one premise is negative, the conclusion is negative
- If both premises are affirmative, the conclusion is affirmative
- At least one premise must be universal
- If one premise is particular, the conclusion is particular

Major Premise

Universally quantified statement

- If all humans are smart

Particular Premises

Minor Premise

- And all Indians are humans

Middle term

Quality

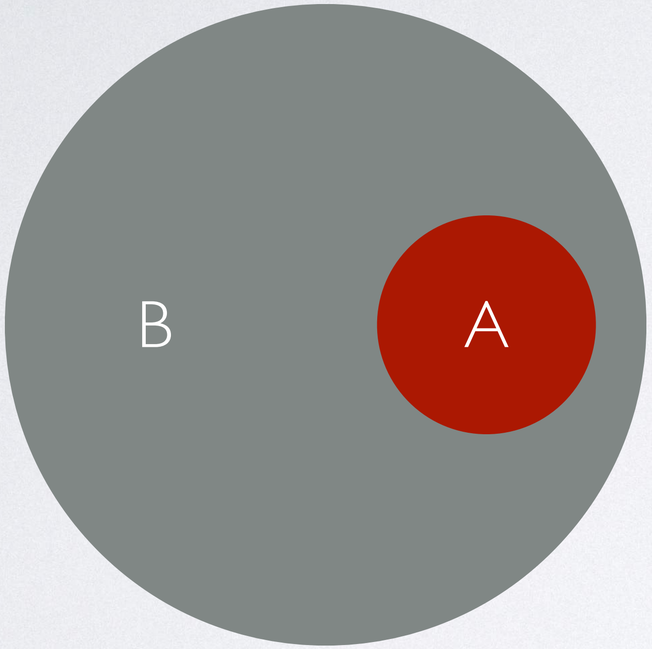
- Then all Indians are smart

Conclusion

All statements are affirmative

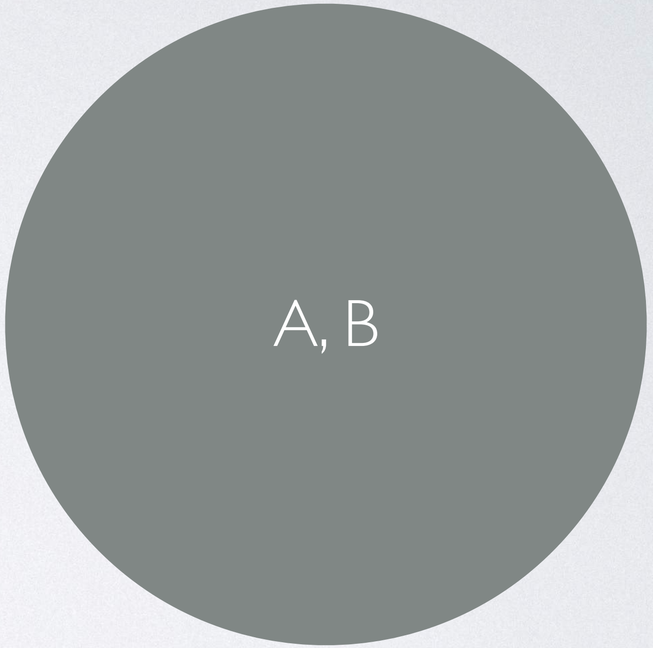
	Affirmative	Negative
Universal	All As are B	No As are B
Particular	Some As are B	Some As are not B

All As are B



A is a subset of B

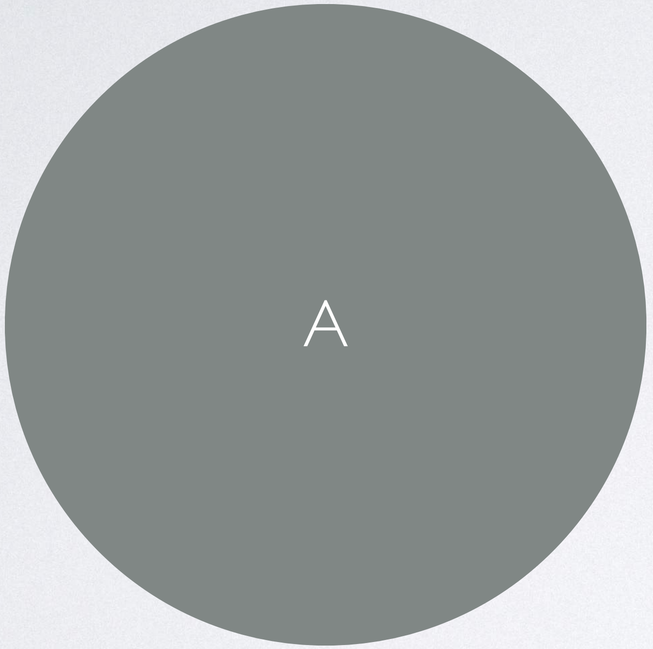
All animals are smart



What if smartness is limited to the species called animals?

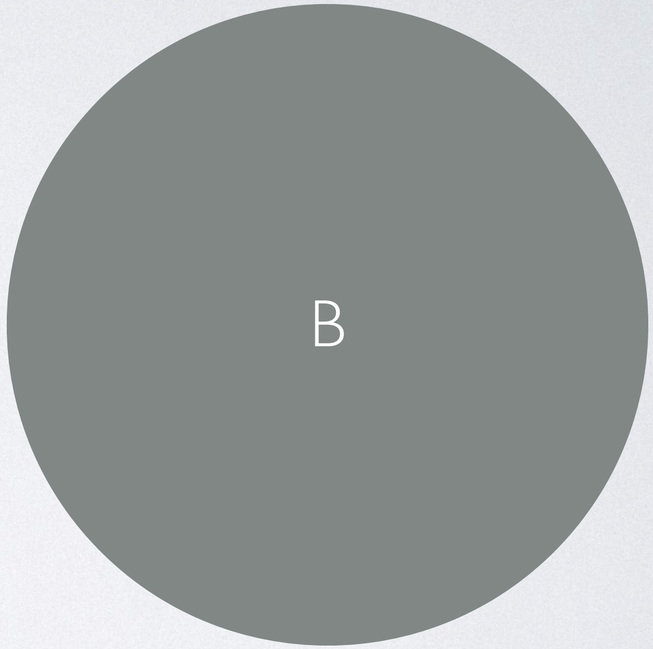
	Affirmative	Negative
Universal	All As are B	No As are B
Particular		

No As are B



No overlap

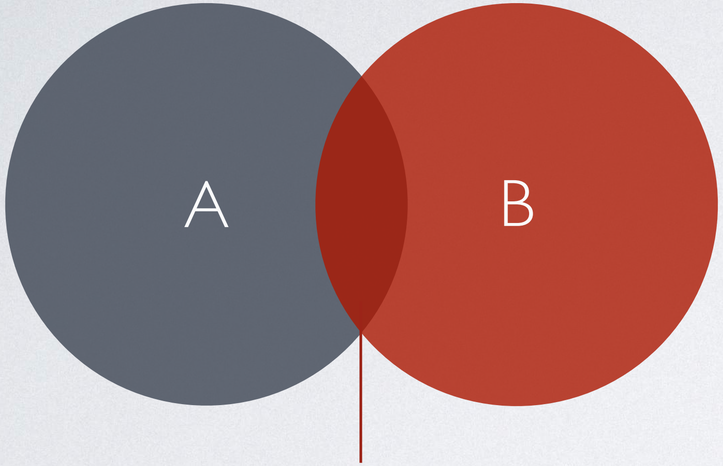
No animals are smart



	Affirmative	Negative
Universal	All As are B	No As are B
Particular	Some As are B	

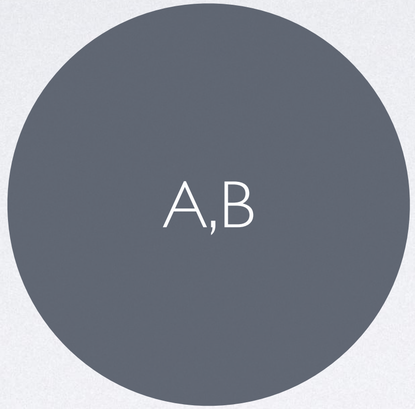
Some As are B

Set Theory: There is at least one element that is there in both set A and B



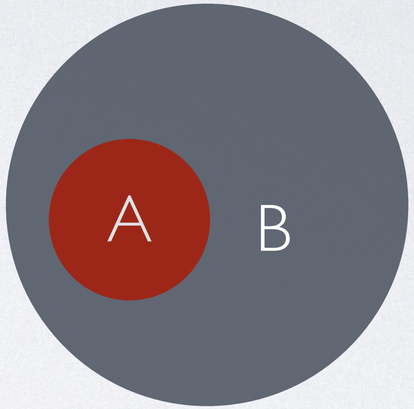
Can’t be empty

There are three sets in this kind of examples
Set A, Set AB, Set B



Can’t infer that some A are not B

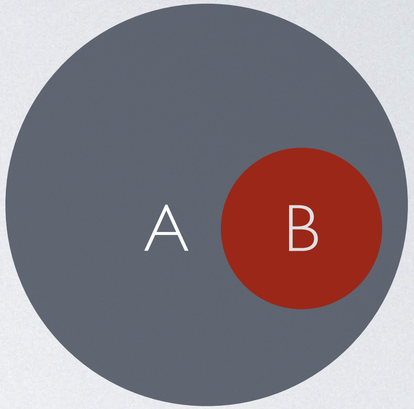
Some Indians are movie lovers doesn’t mean some Indians are not movie lovers



B is a subset of A

Some boys are present in the class.

There are more sets of B



A is a subset of B

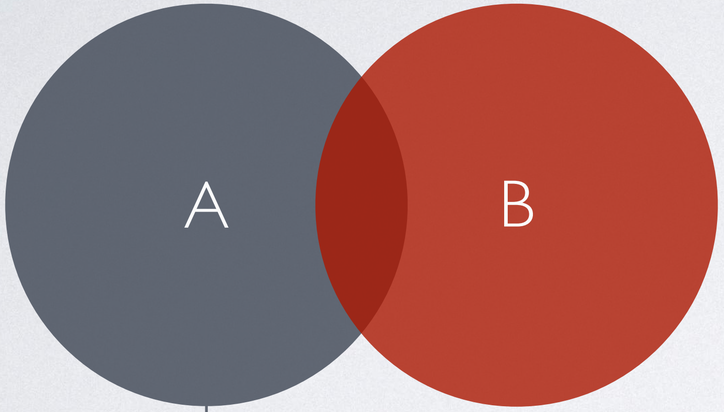
Some boys love Cadbury

There are more sets of A

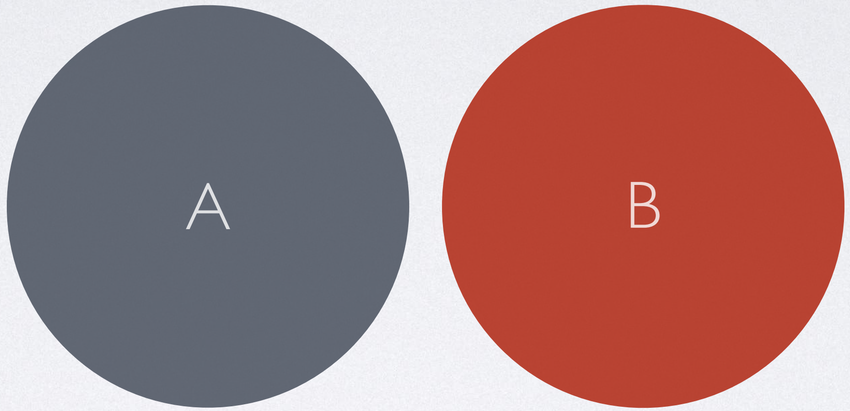
	Affirmative	Negative
Universal	All As are B	No As are B
Particular	Some As are B	Some As are not B

Some As are not B

Set Theory: There is at-least one element in Set A that is not in Set B



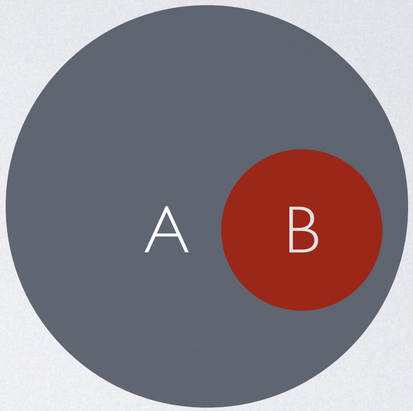
Can’t be empty



Some A are not B, No A are B

Can’t infer that some A are B

Some students are not intelligent, doesn’t mean some students are intelligent



B is a subset of A

All B is contained in A and A has an extra element

WHAT EXACTLY IS LOGIC?

The science of correct reasoning.

WHAT EXACTLY IS REASONING?

Drawing of inference or conclusion.

- Understand the question
- Gather all pertinent facts
- Analyse the problem
- Compare and contrast

DEDUCTIVE REASONING

- Starts with a general rule (a premise)
- Then from this premise we get a conclusion
- A process of reasoning from known facts to conclusion
- If your facts are firm, your conclusion shall also be firm.

THEORY

HYPOTHESIS

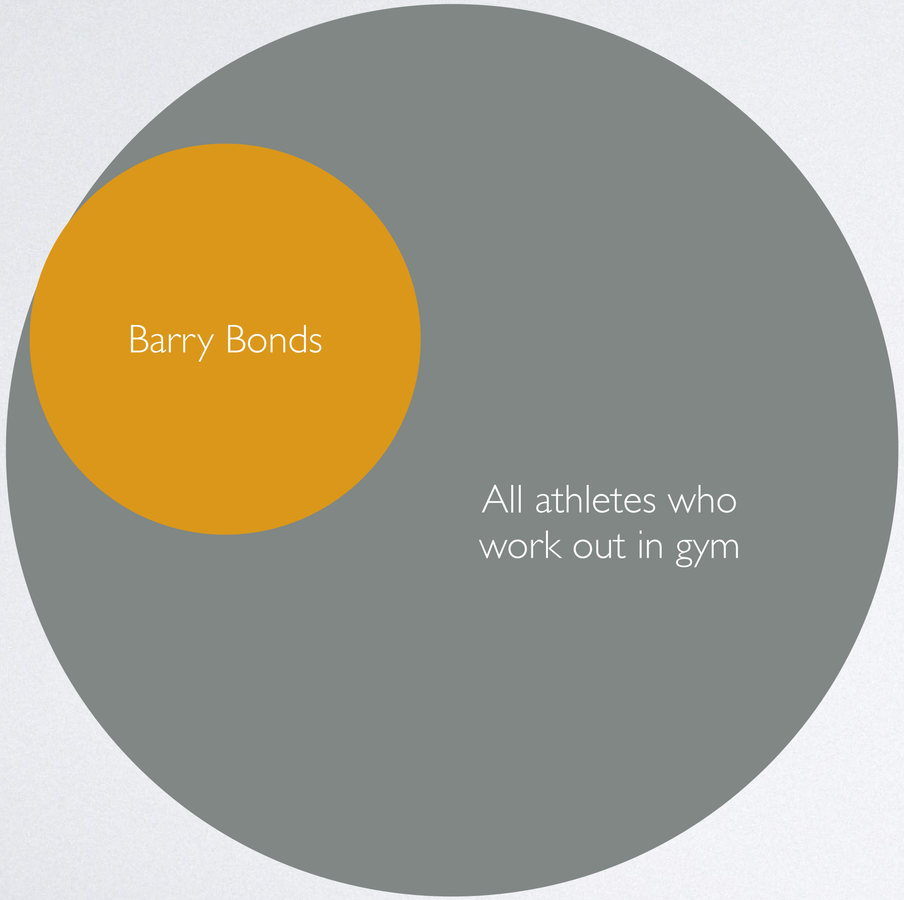
OBSERVATION

CONCLUSION

THEORY	Social Representation Theory
HYPOTHESIS	The representation of rural Indian life is stereotyped in the current Indian web series
OBSERVATION	Watch the current Indian web series
CONCLUSION	TRUE FALSE

VENN DIAGRAM

A diagram consisting of various overlapping figures contained in a rectangle called the universe.

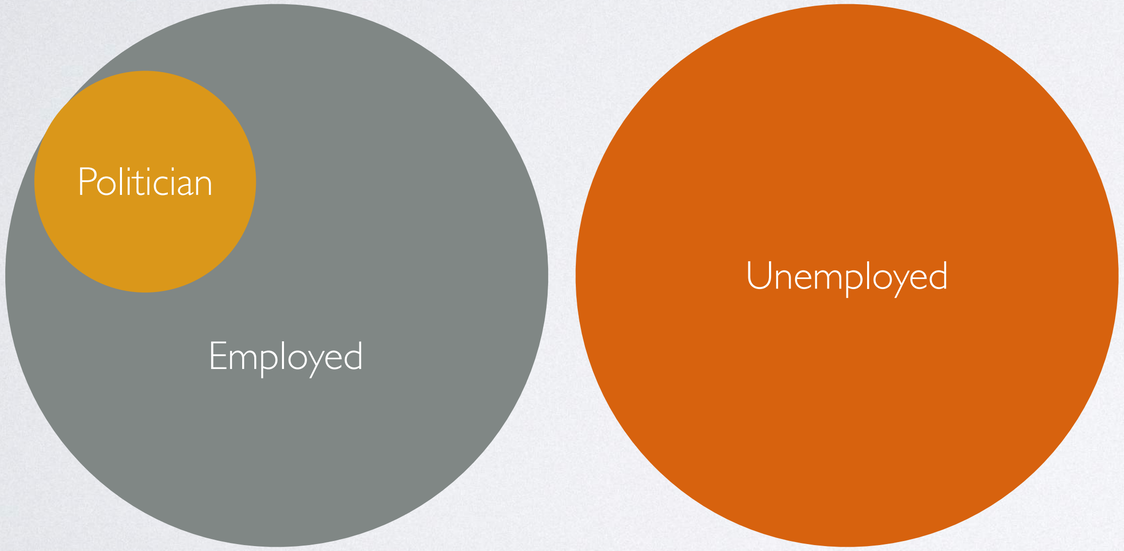


- All athletes work out in the gym.
- Barry Bonds is an athlete.
- Therefore, Barry Bonds works out in the gym.

If all A is C, all B is A, then B is also C

VENN DIAGRAM

A diagram consisting of various overlapping figures contained in a rectangle called the universe.

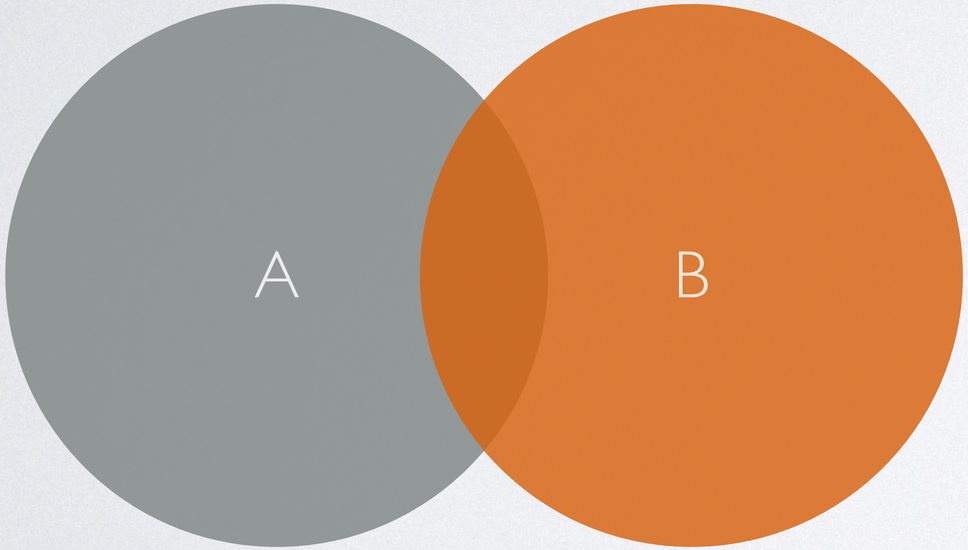


- No one who can afford health insurance is unemployed.
- All politicians can afford health insurance.
- Therefore, no politician is unemployed.

If all A is not C, all B is A, then B is also not C
But no A or B is D

VENN DIAGRAM

A diagram consisting of various overlapping figures contained in a rectangle called the universe.



- Some professors wear glasses.
- Mr. Einstein wears glasses.
- Therefore, Mr. Einstein is a professor.

All A are not B, only some A are B
therefore invalid argument.

INDUCTIVE REASONING

- Starts with a series of specific cases
- Used to prove the general
- The conclusion in inductive argument is not guaranteed.
- What comes after 6, 13, 20, 27, ?

OBSERVATION

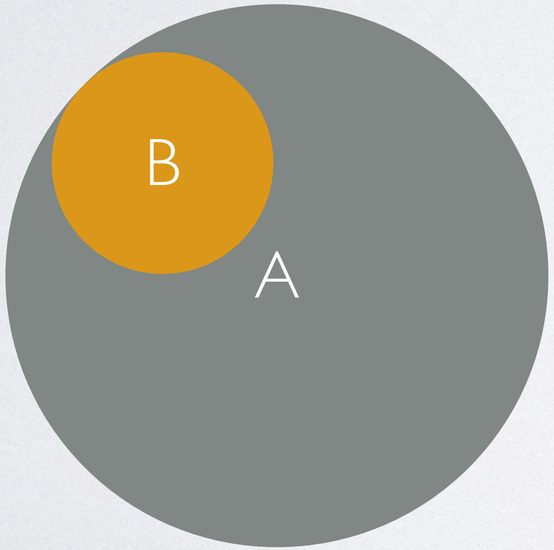
PATTERNS

HYPOTHESIS

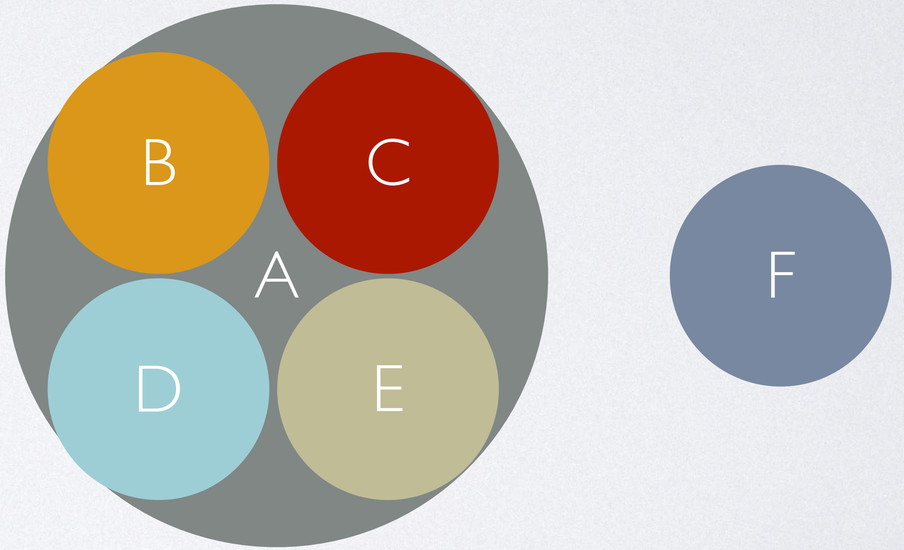
CONCLUSION

OBSERVATION	Exams
PATTERNS	English paper was easy Geography paper was easy Math paper was easy
HYPOTHESIS	Considering all these papers were easy
CONCLUSION	Chemistry paper will be easy

- Everyone in my family spends money
- I am a member of this family
- I spend money



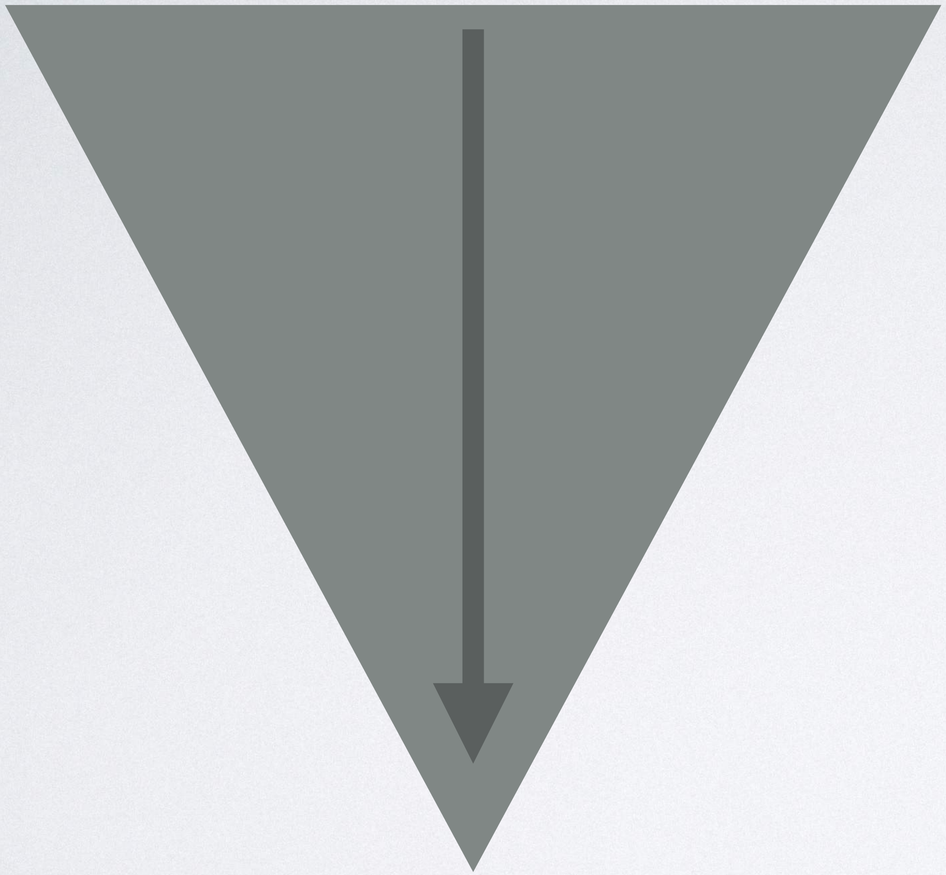
- My father spends money
- My mother spends money
- My brother spends money
- My sister spends money
- Everyone in my family spends money



The more the pattern supports, the better result

DEDUCTIVE REASONING

GENERAL CONCEPTS

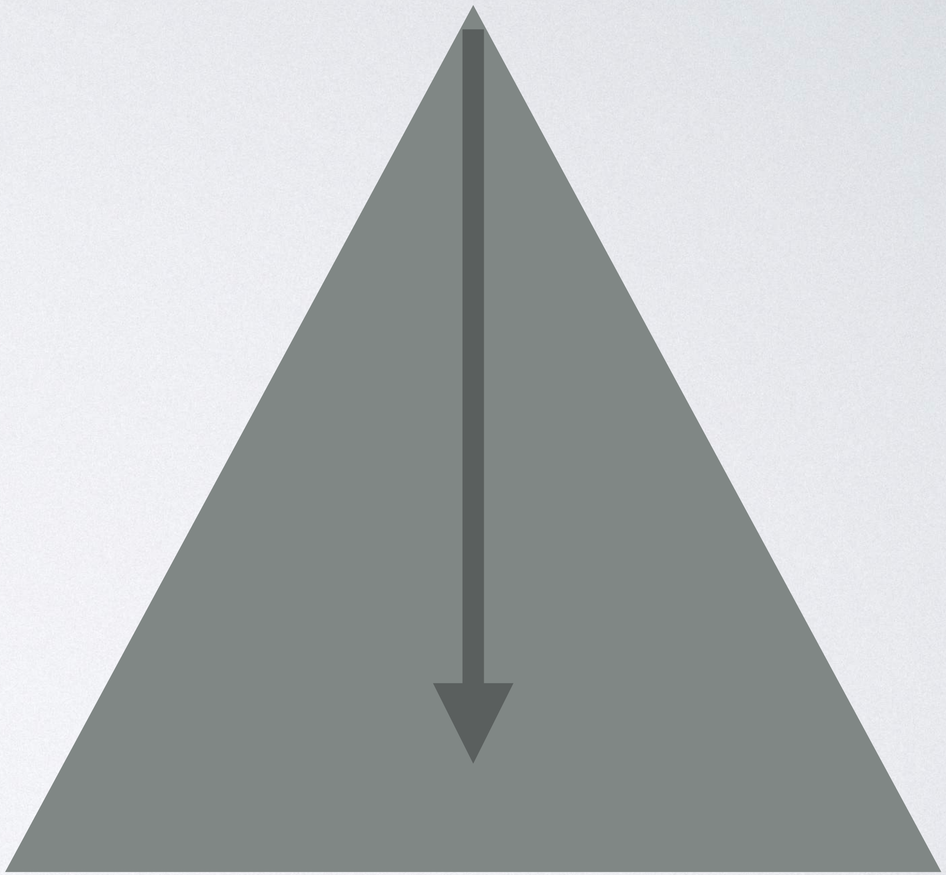


SPECIFIC CONCEPTS

Draw conclusion

INDUCTIVE REASONING

SPECIFIC CONCEPTS



GENERAL CONCEPTS

Draw conclusion

- The bank safe was robbed last night
- Whoever robbed the safe knew the safe's combination
- Only two people know the combination of the bank safe - John and Ron
- John needed money to pay his gambling debts
- John was seen sneaking around outside the bank last night
- John robbed the bank safe last night

Some Major Source of Knowledge

Empiricism

Empiricism shares the view that there is no such thing as innate knowledge, and that instead knowledge is derived from experience (either sensed via the five senses or reasoned via the brain or mind). Locke, Berkeley, and Hume are empiricists (though they have very different views about metaphysics).

About Empiricism

Empiricism is Simpler

Compared to Empiricism, Rationalism has one more entity that exists: Innate knowledge. According to the Empiricist, innate knowledge is unobservable and inefficacious; that is, it does not do anything. The knowledge may sit there, never being used. Using Ockham's Razor (= when deciding between competing theories that explain the same phenomena, the simpler theory is better),1 Empiricism is the better theory.

Colours

Green look like, yellow and blue

How would you know what the colour blue looks like if you were born blind? The only way to come to have the idea of blue is to experience it with your senses. (This objection only works possibly against Plato; see the introduction above again to see why this objection would not faze Descartes, Leibniz, or Chomsky.)

Imagination and Experience

How can we get the idea of perfect triangularity? We can extrapolate from our experience with crooked, sensible triangles and use our imagination to straighten out what is crooked and see what perfect triangularity is.

Rationalists have been Wrong about Their "Innate Knowledge"

Some medieval rationalists claimed that the **notion of a vacuum** was rationally absurd and hence it was impossible for one to exist. However, we have shown that it is possible. Reason is not the only way to discover the truth about a matter.

The Advance of Science

Much of science is founded on empiricist principles, and would not have advanced without it. If we base our conclusions about the world on empiricism, we can change our theories and improve upon them and see our mistakes. A rationalist seems to have to say that we've discovered innate knowledge and then be embarrassed if he or she is ever wrong (see examples such as the vacuum, above).

All Rationalists do Not Agree about Innate Knowledge

Rationalists claim that there is innate knowledge that gives us fundamental truths about reality, but even among rationalists (e.g., Plato, who believes in reincarnation and Forms and Descartes, who does not believe in either but does believe in a soul), there is disagreement about the nature of reality, the self, etc. How can this be, if there is innate knowledge of these things?

Rationalism

Rationalism share the view that there is innate knowledge; they differ in that they choose different objects of innate knowledge. Plato is a rationalist because he thinks that we have innate knowledge of the Forms [mathematical objects and concepts (triangles, equality, largeness), moral concepts (goodness, beauty, virtue, piety), and possibly color – he doesn't ever explicitly state that there are Forms of colors]; Descartes thinks that the idea of God, or perfection and infinity, and knowledge of my own existence is innate; **G.W. Leibniz thinks that logical principles are innate**; and **Noam Chomsky thinks that the ability to use language** (e.g., language rules) is innate.

About Rationalism

Math and Logic are Innate: Doesn't it seem that mathematical and logical truths are true not because of our five senses, but because of reason's ability to connect ideas?

Morality is Innate

How do we get a sense of what right and wrong are with our five senses? Since we cannot experience things like justice, human rights, moral duties, moral good and evil with our five senses, what can the empiricist's ethical theory like? Hume (an empiricist) says morality is based solely on emotions; Locke says experience can provide us with data to show what is morally right and wrong, but does it seem that way to you?

Verifying Empiricism

Locke (an empiricist) says that our experiences tell us about the nature of reality, but how can we ever check our experience with what reality really is, in order to know that? Rationalists do not think we can, so we have to rely on reason.

Poverty of Stimulus Problem

Three year old uses language in ways that they are not explicitly taught. For example, they form original sentences from words that they haven't heard put together in precisely that way before. Also, they start to understand grammatical rules before they even know what a noun or a verb is. If we can only say what we've heard said by others, how can three year olds speak as well as they do? This is known as the poverty of stimulus problem. You may think that Rationalism is strange, but it does a better job of explaining this problem than Empiricism. One way of choosing which of two theories is better (in addition to or instead of Ockham's Razor – see Empiricism point #1 above) is asking, "Which theory explains the phenomena better?"

Empiricism Undermines Creativity

According to Empiricism, you can combine things, separate them, and nothing else. With Rationalism, we come to experience with ready-made tools for creativity. E.g., Plato would say that we're in touch with abstract, immutable realities, which provide lots of material with which to create.

Controllable Human

According to Empiricism, human beings can be controlled and manipulated exceptionally easily. If we are nothing other than what we experience, then we should be able to be made to do whatever we're taught. Rationalism has it that there is an invariable core (call it "human nature") that refuses to be manipulated, which is what makes us unique.

Some terms related to knowledge

Priori

A Priori is a philosophical term that is used in several different ways. The term is suppose to mean knowledge that is gained through deduction, and not through empirical evidence. For instance, if I have two apples now, and I plan to add three apples, I will have five apples. This is knowledge gained deductively. I did not actually need to get the three other apples and place them with the first two to see that I have five. To this extent, the term A Priori is valid.

The term a priori is used in philosophy to indicate deductive reasoning. The term is Latin, meaning "from what comes before", refering to that which comes before experience.

Something that is known a priori can safely be considered to be a true statement, assuming that the logic (or deductive reasoning) used to arrive at that conclusion is conducted using valid arguments.

Neatly divided into the most prevalent, direct evidence, and the slightly more difficult, circumstantial evidence.

A judge, at the commencement of a trial, is like an empty scale - the scales of justice!

It is up to the two opposing sides to teeter the scale one way or another with evidence so that at the end of the hearing, she can determine what the truth likely is and can render judgment on a preponderance of what she's heard or seen: the evidence.

Evidence

Evidence is the ways and means used to persuade the judge or jury of your facts as the judge (or jury) is expected to start off with a blank slate; no preconceived idea or knowledge of the facts. It is up to the opposing parties to, by taking turns, prove (by providing evidence), to the satisfaction of the court (or jury), the facts needed to support their respective cases.

The best and most common method of presenting evidence to a Court of law is by document. (eg. a signed contract). This is an example of direct evidence, sometimes called "real evidence." The second best method is by oral or viva voce testimony; where you have an eye-witness swear to tell the truth and to then relate to the court (or jury) their experience. In other rarer cases, evidence can be circumstantial.

Memory

Remembering is a fundamental cognitive process, which is involved in virtually all other important cognitive functions, such as reasoning, perception, problem solving, and speech. Because memory is a central component of the mind, it is not surprising that theorizing about memory is as old as philosophy itself. Contemporary philosophers are primarily interested in the role of memory in various metaphysical and epistemological debates.

Recent philosophers have typically imposed a tripartite division on the types of memory: habit memory, personal memory, and factual memory (Zemach 1968, Locke 1971). Habit memory is memory for the sort of everyday procedures one experiences and carries out; an example would be "remembering" how to get home from school. Personal memory is memory for events that one has personally experienced; an example would be one's witnessing the fall of the Berlin Wall. Finally, factual memory is memory for facts; an example would be remembering that 2 + 2 = 4. Philosophers discussing the relation between memory and personal identity tend to focus on personal memory, while those who discuss epistemological issues tend to focus on factual memory.

Observation

Observation is the active acquisition of information from a primary source. In living beings, observation employs the senses. In science, observation can also involve the recording of data via the use of scientific instruments. The term may also refer to any data collected during the scientific activity. Observations can be qualitative, that is, only the absence or presence of a property is noted, or quantitative if a numerical value is attached to the observed phenomenon by counting or measuring.

The scientific method requires observations of natural phenomena to formulate and test hypotheses. It consists of the following steps

1. Ask a question about a natural phenomenon
2. Make observations of the phenomenon
3. Formulate a hypothesis that tentatively answers the question
4. Predict logical, observable consequences of the hypothesis that have not yet been investigated
5. Test the hypothesis' predictions by an experiment, observational study, field study, or simulation
6. Draw a conclusion from data gathered in the experiment, or revise the hypothesis or form a new one and repeat the process
7. Write a descriptive method of observation and the results or conclusions reached
8. Have peers with experience researching the same phenomenon evaluate the results

Perception

Perception can be defined as our recognition and interpretation of sensory information. Perception also includes how we respond to the information. We can think of perception as a process where we take in sensory information from our environment and use that information in order to interact with our environment. Perception allows us to take the sensory information in and make it into something meaningful. Perception (from the Latin perception) is the organization, identification, and interpretation of sensory information in order to represent and understand the presented information, or the environment. Perception is not only the passive receipt of these signals, but it's also shaped by the recipient's learning, memory, expectation, and attention.

All cats have four legs

I have four legs

Therefore, I am a cat



fallacy

fallacy

- Is an argument that contains faulty reasoning
- Construction of a fallacious argument
- The argument follows a “wrong move”
- It is deceptive by appearance
- Committed to intentionally to manipulate or persuade
- Are also committed unintentionally due to carelessness or ignorance



	LOGIC	
	Logically Correct	Logically Incorrect
FACTS		
Factually Correct	Logically Correct And Factually Correct	Logically Incorrect And Factually Correct
Factually Incorrect	Logically Correct And Factually Incorrect	Logically Incorrect And Factually Incorrect

fallacy

- Mistakes in reasoning that occur because the premises are logically irrelevant to the conclusion
- Insufficient evidence - even if the conclusion is logical



The empty bank safe



The bank safe was robbed last night

Whoever [illegible] the safe k[illegible] safe's combination

Only two peop[illegible]mbination of the bank safe - John and Ro[illegible]

John was [illegible]n[illegible]g[illegible] robbery debts

John wants [illegible]ing hi[illegible]side the bank last night

John robbed the bank safe last night

fallacy

faulty cause

- When there is a link created between the premise and the conclusion.
- Made through a causal connection that probably does not exist.
- Something is identified as a cause of event but it is not so.
- A occurred, then B occurred.

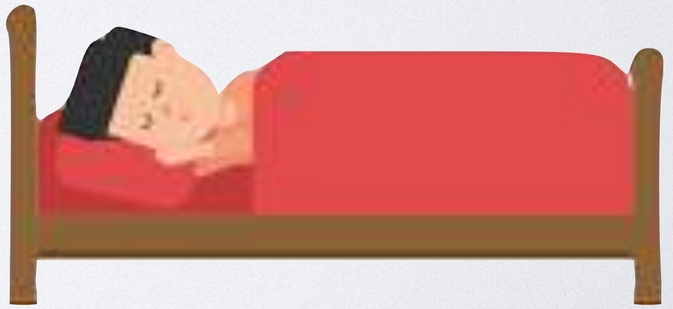
  Therefore, A caused B.



I sleep at 7 pm

The sun sets at 7 pm

My sleeping is the reason of sunset



faulty cause

The more fireman that are fighting fire, the bigger the fire will be. Therefore, fireman causes fire.

I am sure Manchester United will win this league, every time SENSEX crosses 42,000 Manchester United wins.

Millennials use more deodorant that the earlier generation.

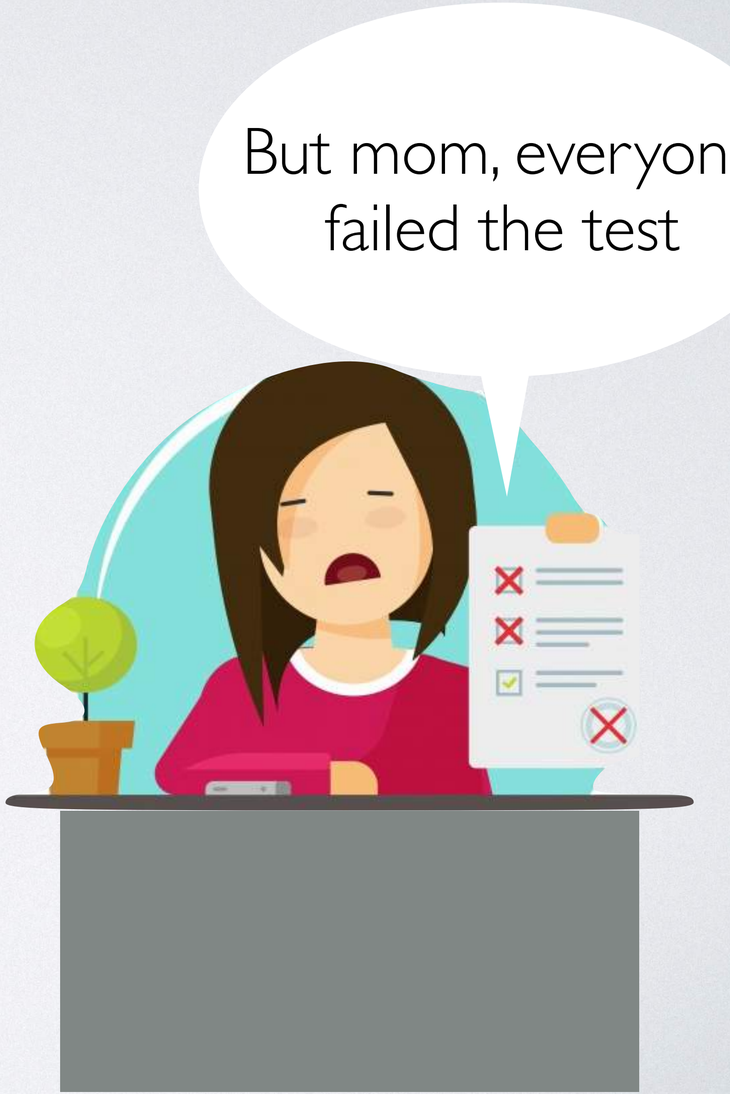
Global warming has increased since 1990s

Usage of deodorants caused global warming

sweeping generalisation

- A rule is applied to make a generalised statement
- Generalisations generally use the following words

  all, always, never, every, everything, no one and none
- This fallacy ignores or doesn't even require evidence



sweeping generalisation

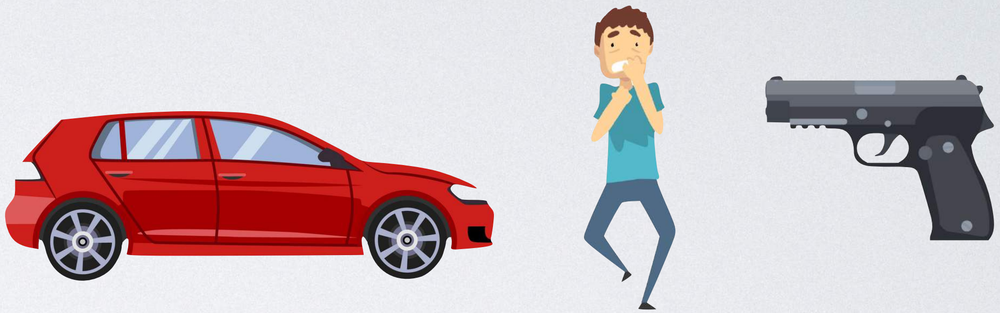
Some people who own guns are murderers, therefore all gun-owners are murderers.

I met some children from Garton yesterday, who were very polite. I think all children in that area must be well behaved.

No matter what career you choose, you need strong writing skills. If you don't have writing skills, your career is ruined.

faulty analogy

- Inductive form of argument
- Argument follows a logical pattern and can be true
- Argument doesn't maintain the logical analogy
- They are resemblance of argument
- If Item A and Item B both have Quality X in common, they must also have Quality Y in common



Cars cause more death than firearms do, so if we are going to ban firearms, we should also ban cars

faulty analogy

1 is a number

2 is a number

Therefore, 1 = 2

Penguins are black and white, old TVs are

black and white, therefore penguins are TV

Using a computer without training is like

using a car without license.

anecdotal fallacy

- Anecdotal evidence
- Personal testimonies rather than on scientific evidence
- Weakest type of evidence
- Argument is made on the basis of these evidences
- Advertising and marketing, anecdotal evidence is known as testimonials.

Its common logical forms are as follows:

A. Y occurred once when X.

B. Therefore, Y will occur every time when X.

A. Person Y told me that he saw/heard X.

B. Therefore, X must be true.

anecdotal fallacy

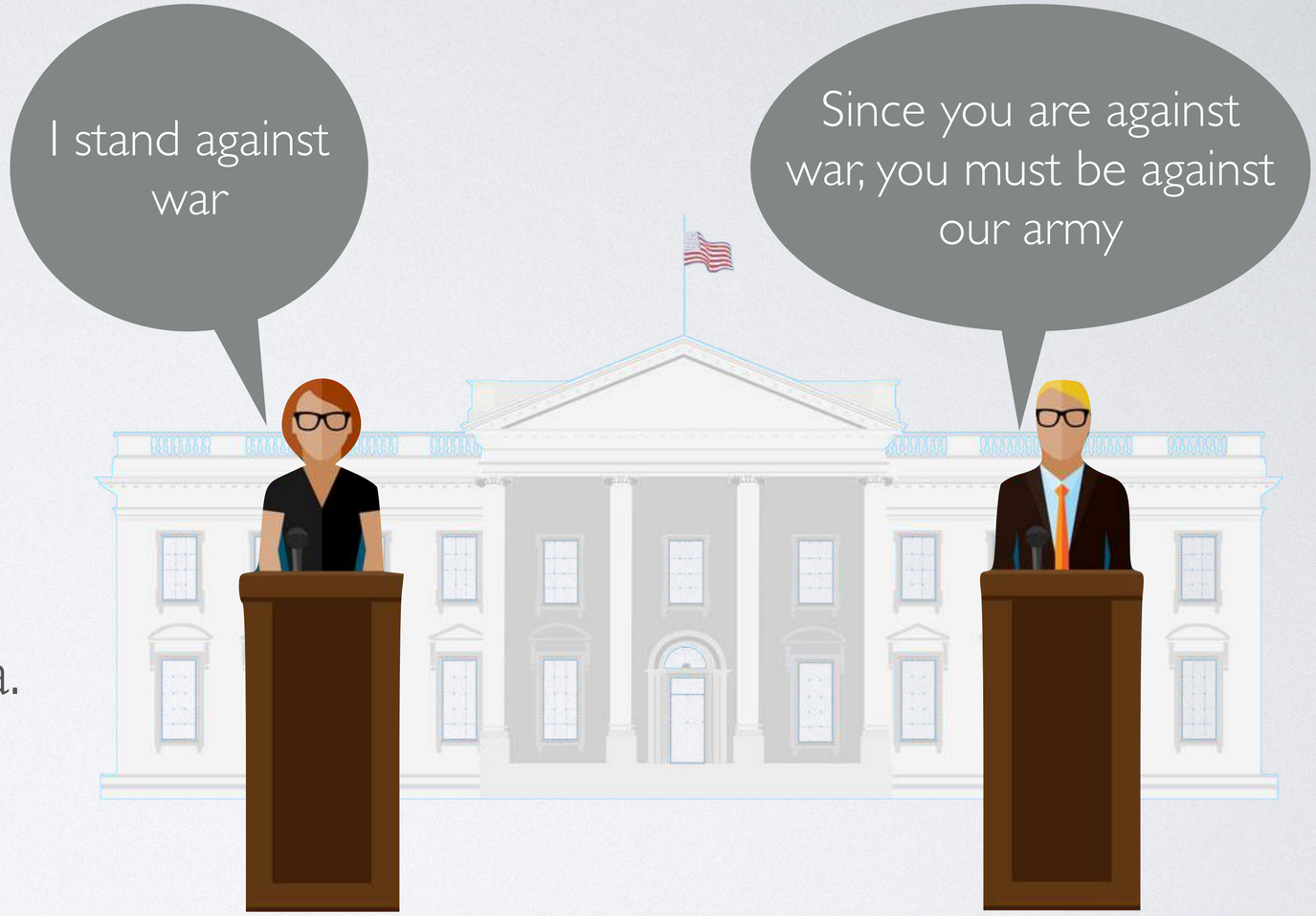
"My grandfather was a heavy smoker most of his life, but he lived to be 90 years old. Therefore, smoking is not harmful to people.”

Self-driving cars are too dangerous to be used on public roads. Just last week I read about a case where a self-driving car caused a fatal crash.

My friend has experienced something she can only describe as paranormal experience, so the existence of paranormal experience is true really must be true.

bifurcation (false dilemma)

- fallacy of bifurcation
- there are only two mutually exclusive possibilities
- when, in fact, there is a third option
- either-or fallacy and the false dilemma.
- Either A or C, there can never be a B
- Popularly used by politicians



bifurcation (false dilemma)

Either the traffic light is red, or it is green

"You must not really believe that God is going to answer your request for healing; otherwise you would not have gone to the doctor."

If scientists (or some other authority) cannot explain event X, then it must be caused by God/aliens.

equivocation

- doublespeak
- use of vague language to hide one's meaning
- to avoid committing to a point of view
- use of a particular word/expression in multiple senses within an argument.
- a phrase having two or more distinct meanings,
- Used to mislead arguments



All trees have bark. Every dog bark.

Therefore every dog is a tree.

equivocation

Since only man [human] is rational.

And no woman is a man [male].

Therefore, no woman is rational.

A feather is light [not heavy].

What is light [bright] cannot be dark.

Therefore, a feather cannot be dark.

Taxes are true headache.

Painkillers will make headache go.

Therefore, painkillers will make taxes go.

tautology

Unnecessary repetition of words.

Armed gunman, dry desert, etc.

I went to see my brother personally.

- fallacy of circular motion
- one part of the premise can be true but not the conclusion
- sometimes the premises and the conclusion are inter-related and can be true, those cannot be considered as fallacy.
- circular logic but the obverse is not necessarily true.
- If A has the quality of B, then B has the quality of A

Every sharp shooter is a killer

Every killer is a sharp shooter



tautology

Anyone who commits mass mass murders

is insane.

All insane people commit mass murders

Mathematics doesn't make sense.

Everything that doesn't make sense is

mathematical in nature.

All lies are false

Everything that is false is a lie

appeal to popular belief

- Using the popularity of a premise or proposition as evidence
- Something that is popular should be true
- Argument that lacks evidence and follows common sense
- Everybody is doing X.

  Therefore, X must be the right thing to do.



appeal to popular belief

It might be against the law to drink when you are 18 years old, but everyone does it, so it's okay.

Everyone already believes that the defendant killed her husband, and that many people can't be wrong.

Everyone believes in God, therefore God must be true.

association fallacy

- Believing that something is positive or negative
- Based on an association with someone or something that is considered as positive or negative.
- guilt by association and honour by association.

Martin Luther King was a Baptist.

King was a good person.

Therefore, Baptists are good



association fallacy

The Republican Party is opposed to raising the minimum wage.

Abraham Lincoln was a member of the Republican Party.

Abraham Lincoln was a good man.

Therefore, we should not raise the minimum wage.

Stalin was an atheist.

Stalin had millions of people killed.

Therefore, atheists are awful people.

Galileo was persecuted for his beliefs.

Galileo was right.

I'm persecuted for my beliefs.

I'm right.

A happened after B, so A caused B

The penguins were watching TV

The TV screen broke

So penguin broke the TV screen

faulty cause

sweeping generalisation

All bird can fly, penguin is a bird, it must fly.

Generalised idea about something.
All A has a quality (when they don't)

Penguins are black and white, old TVs are black and white, therefore penguins are TV

faulty analogy

A has the quality B
C has the quality B
So A is B

My brother saw a penguins watching TV in the zoo therefore penguins must be watching TV for entertainment.

anecdotal fallacy

Personal testimony that may be true
A saw B is C, therefore all B is C

bifurcation (false dilemma)

Either the penguins are watching a cricket match or a football match on TV. They don't have any other option.

A has two options either black or white, the presence of grey is neglected

Words with different meaning are used to draw a fallacious conclusion

Penguins live near seals

Seals are manufactured in printing press.

Penguins live near printing press

equivocation

Every penguin is black and white,

everything that is black and white

is a penguin.

tautology

A is a part of B doesn't always mean that B is A

appeal to popular belief

A negative or positive association drawn from an illogical premise

Everyone thinks penguin is cute,

so it must be true.

Everyone does something, so it is okay to do that something

All penguins is lovable.

Penguin is a bird.

So all birds are lovable.

association fallacy