

Persuasive Language in Legal Arguments: Techniques and Examples

Kakungulu Samuel J.

Faculty of Education, Kampala International University, Uganda

ABSTRACT

The art of persuasion is integral to legal arguments, shaping the way legal professionals present their cases to influence judicial decisions. This paper investigated the role of persuasive language in legal writing and courtroom advocacy, exploring key rhetorical strategies such as ethos, pathos, and logos, and their impact on judicial outcomes. Techniques like metaphor, analogy, rhetorical questions, and custom are analyzed, along with case studies that demonstrate their effectiveness. The ethical considerations surrounding the use of persuasive language in law are also highlighted, emphasizing the importance of maintaining integrity while influencing decision-making processes. Through these discussions, this paper provides a comprehensive guide to the techniques of persuasion in legal contexts, offering practical insights for legal professionals and students.

Keywords: Persuasive language, legal arguments, rhetoric, ethos, pathos, logos.

INTRODUCTION

The use of persuasive language often plays a crucial, if often overlooked, role in the crafting of legal arguments. It is a well-established finding in judicial behavior that the judge's experiences, attitudes, and biases often influence legal outcomes. Consequently, effective legal writers must employ persuasive techniques to convince a judge that their argument is stronger or more reasonable than the alternative. Grounded in these principles, we first evaluate the persuasiveness of the written arguments voiced by attorneys. Persuasion is a delicate art. Humans are influenced by a number of devices, from appearance to evocation of particular emotions. Therefore, it is important to understand the power of persuasive writing and not to abuse it. In particular, applying psychological pressure on the audience is not acceptable. The importance of mastering persuasive techniques cannot be overstressed. However, it is vital to employ them with utmost caution and respect, remembering the extent of the consequences that a wrongly granted judgment can have. The issue of persuasive language is of particular significance in trial courts, where appellate review may be discretionary or confined to questions of law only, as the court is generally more closely wed to the law when dissenting from the policy of the federal circuit in which their court is located. In this context, persuasive language and prioritizing regard for the law may be the most effective means of obtaining the court's favorable ruling [1, 2, 3].

Techniques For Effective Persuasion in Legal Writing

Much of legal writing is persuasive; to be effective, a document must be both accurate and easy to act upon. Two techniques are fundamental to the crafting of an effective legal document. The first is making the document as clear as possible; since clarity is valued in all forms of writing, anything written about it is likely to contain insights that transcend the sphere of legal writing. Clarity is achieved through coherence. The second fundamental technique for effective legal writing is honing the argumentative edge of the document. Although no formal system exists for creating valid, compelling arguments, basic tools of argument—standby constructions called "ethos," "pathos," and "logos" may reduce the risks of long-term entrenchment, defensive aggression, and unreasonableness [4, 5, 6]. Legal writing often seeks to persuade. It takes some skill to create an argument that appeals successfully—to your reader. You need to say the right thing, in the right way, at the right time, and for the right reasons. Some of the techniques described below apply primarily to litigation; others, like the use of logic, are effective in all types of legal writing. Where possible, the examples provided should demonstrate how these techniques can be used in

non-litigation legal writing such as business transactions, mediation, or negotiations, when those uses are different from those in litigation. Effective legal writing is necessarily strategic. Each genre of legal writing shares a fundamental purpose: persuading its target audience. Thus, every type of legal writing can be enhanced by the development of skills and understanding that pertain to persuasion. By these lights, the ability to write persuasively is a learned skill. A corollary of strategic legal writing is that arguments cannot be detached from the people who advance them. To maximize persuasiveness, legal writers should shape arguments to fit the psychological preferences of the judge or jury. The techniques of persuasion, like those of rhetoric, are only means to an end, not ends in themselves. No one can argue without pausing to consider whom he addresses. On the basis of a consideration of his audience's ideas about social decorum and about wisdom, emotion, and values, he adjusts his argument to the hearers' mental cast and brings them to accept his conclusion with their own sense of its appropriateness [7, 8, 9].

Rhetorical Devices and Strategies in Legal Arguments

Rhetorical Devices and Strategies. One of the most common devices used in legal discourse is metaphor. Research in cognitive science corroborates the importance and ubiquity, which provides an opportunity to get the judge to see things your way and to control the way judges and even colleagues think by encouraging particular interpretations that are favorable to the advocate's position. This is an important consideration in areas where the judges' background can have a bearing on how they rule. The persuasive power of metaphor, it is thought, comes from its ability to simplify complex legal doctrines in a way that ordinary people can relate to. Analogies, which are related to metaphors, similarly serve to simplify complex issues and make them more readable. This is done essentially by making those with decision-making power understand the personal relevance of legal principles and doctrines. Analogies and hypotheticals placed during a legal argument can create visions of comparative social orders and represent an important way of conferring meaning on regimes of otherwise abstract rules and assisting judges in a positive visualization of the case [10, 11, 12]. Custom is essentially the tenet that judges are bound by its decrees because they have already decided on a case with similar facts. This fits the proposition that the rhetorical function of precedent involves strategies of both strategic norm creation and strategic norm manipulation, or, as I expressed earlier, commitment and discretion. A rhetorical question can have several possible effects; it can be a hidden statement or a direct request for information. It can indirectly prompt ongoing thought, provoke an argument with itself, direct attention or agreement to a suggested point, or simply give the listener alternatives. A rhetorical question or the posing of a question to which the speaker knows there can be no easy answer can be a compelling and persuasive strategy. It can sometimes prod the addressee to look for concrete answers rather than abstract, thus guiding the discussion in a direction that is beneficial to the speaker. However, those to whom the rhetorical question is posed can, at times, see through it and interpret it as a way to push forth a flawed point. The strength of the rhetorical question is that it cannot be refuted by anything specific. Furthermore, if the listener does not answer in their head, they might accept the speaker's point of view at least implicitly [13, 14, 15].

Analyzing Case Studies and Examples of Persuasive Language in Legal Contexts

This article has the goal of informing and inspiring legal writers, both experts who need new ideas for persuading courts and students who need to understand the techniques behind persuasive language. I have chosen to utilize a case study approach, focusing on a handful of examples in which lawyers effectively convinced courts of their legal point of view. Although they are drawn from different jurisdictions and eras, these techniques will be familiar to any audience for their application in legal argumentation: the use of eye-catching or disarming language; empirically based arguments that take advantage of statements from elite sources; analogies for persuasion; references that work to elicit pathos; selfless language suggesting disregard for money, marketplace values, or self-interest generally; the use of religious figures or tropes to persuade; and the recourse to community-based standards, legal and moral [16, 13, 17]. These case studies further invite us to think about the intersocial dimension of law and persuasive communication. We should ask: how do our rhetorical and discursive choices influence the interlocutor's decision-making process, both positive and negative choice arguments? What is the impact of contextual and extra-linguistic pragmatic conventions of argument, in their historical evolution or transformation? Why do certain argumentation strategies assume their persuasive potential across legal cultures and others do not? At a deeper level, studying these questions also allows us to better understand what features give rise to biased outcomes and what communicators' responsibilities toward their audiences are. A bias formed by persuasive language may reveal how legal rhetoric could lead victims to the wrong choices, or conversely, identify the possible emotional reaction of a judge in an attempt to bring people closer to an alternative argument. As such, the ethics of persuasive appeals in

criminal law and legal rhetoric are not only a mere professional question in the pursuit of legal action but also an involuntary and accidental instrument of emotional manipulation. We must therefore address any research interest in the ethics of persuasive action in law from this perspective [18, 19, 20,21].

CONCLUSION

Persuasive language is a powerful tool in the hands of legal professionals, shaping arguments to resonate with the psychological and emotional predispositions of judges and juries. Mastering techniques such as ethos, pathos, and logos, along with rhetorical devices like metaphor and analogy, can significantly enhance the effectiveness of legal arguments. However, with this power comes responsibility, as ethical considerations must always guide the use of persuasive techniques to avoid manipulation and ensure fairness in legal proceedings. By understanding the nuances of persuasive language, legal writers can not only craft stronger arguments but also contribute to the integrity of the legal process.

REFERENCES

1. Yoro RE, Ejaita OA, Peace EO. *Journal of Computing, Science & Technology*. JCST. 2024;1(2).
2. Cannon CM, Felberbaum M. *Focused Fundraising: How to Raise Your Sights and Overcome Overload*. John Wiley & Sons; 2022 Aug 30.
3. Palmisano DJ. *A Leader's Guide to Giving a Memorable Speech: How to Deliver a Message and Captivate an Audience*. Simon and Schuster; 2020 Apr 7.
4. Edwards LH, Moppett SA. *Legal Writing and Analysis*: [Connected EBook with Study Center]. Aspen Publishing; 2022 Dec 30.
5. Candlin CN, Bhatia VK, Jensen CH. Developing legal writing materials for English second language learners: Problems and perspectives. *English for Specific Purposes*. 2002 Jan 1;21(4):299-320.
6. Dernbach JC, Singleton RV, Wharton CS, Wasson CJ, Ruhtenberg JM. *A practical guide to legal writing and legal method*. Aspen Publishing; 2021 Feb 25.
7. Enquist A, Oates LC, Francis J. *Just writing: Grammar, punctuation, and style for the legal writer*. Aspen Publishing; 2022 Jan 31.
8. Rude CD. Toward an expanded concept of rhetorical delivery: The uses of reports in public policy debates. In *Civic Engagement and Technical Communication 2023* Apr 14 (pp. 271-288). Routledge.
9. Diehl J. Anti-Imperial Rhetoric in the New Testament. *Currents in biblical research*. 2011 Oct;10(1):9-52.
10. Kravchenko NK, Nikolska NV. Discourse structure relationships (based on International legal "Soft Law" discourse). *Scientific journal «International Journal of Philology»*. 2020;11(1):101-7. [researchgate.net](https://www.researchgate.net)
11. Aluya I, Edem S. Language Techniques and Literary Devices for National Messaging in President Buhari's Democracy Day Speech. *Baltic Journal Of English Language, Literature And Culture*. 2023 May 15;13:4-17. [liv](https://www.liv)
12. Abdel-Raheem A. Where Covid metaphors come from: reconsidering context and modality in metaphor. *Social Semiotics*. 2023 Oct 20;33(5):971-1010.
13. El Majidi A, Janssen D, de Graaff R. The effects of in-class debates on argumentation skills in second language education. *System*. 2021 Oct 1;101:102576.
14. Visser J, Lawrence J, Reed C, Wagemans J, Walton D. Annotating argument schemes. In *Argumentation through languages and cultures 2020* May 7 (pp. 101-139). Cham: Springer Nature Switzerland. [springer.com](https://www.springer.com)
15. Stahl BC, Eke D. The ethics of ChatGPT—Exploring the ethical issues of an emerging technology. *International Journal of Information Management*. 2024 Feb 1;74:102700.
16. Dernbach JC, Singleton RV, Wharton CS, Wasson CJ, Ruhtenberg JM. *A practical guide to legal writing and legal method*. Aspen Publishing; 2021 Feb 25.
17. Djourelova M. Persuasion through slanted language: Evidence from the media coverage of immigration. *American economic review*. 2023 Mar 1;113(3):800-35.
18. Slobogin C, Weisburd K. ILLEGITIMATE CHOICES: A MINIMALIST (?) APPROACH TO CONSENT AND WAIVER IN CRIMINAL CASES. *Washington University Law Review*. 2024 Nov 1;101(6). [HTML]
19. Confino D, Schori-Eyal N, Gur T, Falomir-Pichastor JM. Retribution versus rehabilitation as motives for support of offender's punishment: The moderating role of mindsets about malleability. *Comprehensive Results in Social Psychology*. 2022 Sep 2;6(1-3):39-58.

20. Ried K, Travica N, Dorairaj R, Sali A. Herbal formula improves upper and lower gastrointestinal symptoms and gut health in Australian adults with digestive disorders. *Nutrition Research*. 2020 Apr 1;76:37-51.
21. Azzutti A. AI trading and the limits of EU law enforcement in deterring market manipulation. *Computer Law & Security Review*. 2022 Jul 1;45:105690.

CITE AS: Kakungulu Samuel J. (2024). Persuasive Language in Legal Arguments: Techniques and Examples. EURASIAN EXPERIMENT JOURNAL OF HUMANITIES AND SOCIAL SCIENCES, 5(3):14-17