

MS VANDANA RAJWANI (1): WHAT MAKES GOOD ORAL ADVOCACY?

What makes a good oral legal argument in English?

An effective oral legal argument in English, number one, has to be clear. Ultimately, you are a communicator and the issue is: are you an effective one or ineffective? You have to be clear, you have to be precise, succinct, compelling, persuasive. Five elements.

So that's really about the delivery. Content-wise, what I think is effective in a busy magistrates' court in Hong Kong – tell them at the beginning what you would like. Give them the conclusion you want them to reach. This applies to any judge. When you're presenting an oral legal argument, lay it out. In Hong Kong, people like buffets. Like a buffet, present it beautifully. Present it, so that they can select what they want to make their decisions. Help them, guide them. How do you guide them? Structure is critical. Enumerate your points. Pick the strongest points and use language that is articulate.

How did you first learn about oral advocacy? What were the main challenges you faced and how did you overcome them?

One of the things that people ask me often is how did I develop my skills? Oh, I really wish that I had the opportunities that they have now. If I can tell you how I learnt it and then I'll explain what I think is useful now. I did not have the opportunity to practise as much as students now. I didn't have training sessions where I was recorded. What I did was, I was, for some particular time frame, in the beginning of my pupillage, I was involved in a campaign and so I was interviewed a lot by international media organizations including BBC and CNN. I then watched and listened. To my horror, I found that I used my hands a lot and I had numerous verbal pauses, lots of ahs and ums and ers. Not necessarily because of nerves, but just because of habit, and I felt that the choice of words that I used were not as persuasive as they could be. So I listened to myself and then I watched recordings of other persuasive speakers, and tried to see how I could improve. But now, students can do that easily with their own recordings. They can watch themselves. The best feedback is when you give it to yourself.

As a practising barrister, what do you think about when delivering an oral legal argument in court to make it effective?

Firstly, the argument has to be logical. It has to have an effective structure. It has to have sound legal basis. You have to demonstrate a level of solid legal knowledge behind your argument. Without that, you have no foundation. So without the preparation, without the legal research, the pros and the cons, the advantages and the disadvantages, the weaknesses and the strengths; without going through: A, the legal principles; B, the cases that support it; C, the cases that oppose it; D, distinguishing it; without that core, there's no point in you even standing up.

What other considerations are there in preparing a good oral legal argument?

You've got to be flexible. One thing that I think students find is they like their structure, they like to stick to their structure, that rigidity. If you can understand your arguments like a story, you can tell a story. You can take out chapters from that story. You can change the order of that story. So having an entirely solid grasp of your story, your arguments, it's critical so that you can then, whatever the court throws out, you can respond to it.

The other thing you need to consider is think about your audience, look at them, look at their eyes, have some communication, non-verbal communication. If they look like they're bored, remember they're humans. Take a break. Might this be an appropriate time for a short break. If you find that they are nodding their head and they are leaning forward, that is non-verbal communication that they are very interested in what you're saying, continue, don't stop, don't change that particular line of argument or reasoning. Non-verbal communication, body language, is critical for understanding your bench.