1-1-1995

Reflections of IRAC

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Recommended Citation

THE SECOND DRAFT (The Legal Writing Institute), Nov. 1995, at 9

the question asked, and then, having identified tentatively the relevant rules, must return to the facts and sort out those elements of the rules that the facts call into play. Adding (QfrFR) to the standard IRAC formulation would provide that reminder.

REFLECTIONS OF IRAC
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At a recent staff meeting of the Lawyering Process Program faculty, our discussion turned to the different approaches we could use to teach our first persuasive/closed universe writing assignment. In particular, the conversation focused on how to best present the format for and explain the process of legal writing to the students. We explored myriad possible approaches — syllogism,[1] "CRRPA"[2] IRAC, TRAC, etc… and concluded that each of the various formats were similar in their essential components. Thus, we agreed that IRAC provided a good starting point to explain the components of legal argument. It required students to present a good, clear statement of law, a clear and affirmative statement of the issue, an articulation of applicable rules, an analysis and an application of facts to rules of law, and a statement of the ultimate conclusion or prediction. These elements, we concurred, were essential components of good legal writing that should be contained in all good and thorough legal writing from inter-office memoranda and persuasive court briefs to law school exams.

That being said, we also discussed in some depth what we felt were inherent and fundamental weaknesses with IRAC and its related approaches. Fundamentally, we agreed that it was important not to present IRAC as "the only way" to write a legal document, but only as a helpful framework for beginning writers. Indeed, we thought it was important to note to students that IRAC was a simplified format for writing and an organizing tool for legal analysis, but in the final analysis, it was not synonymous with nor a substitute for legal analysis itself.

It is our view that part of the focus of teaching a student how to write in his/her first year is to emphasize how legal analysis "in the real world" is a question of context. What a case "means" depends upon whose interest one represents, the particular facts of one's client, the court one is in, the ethical constraints of the attorney, etc. It is this orientation that complements, but may on first blush appear to conflict with, the traditional way first year students are taught legal

analysis. IRAC as a methodology is more suited to the latter orientation than the former. For example, first years get indoctrinated with terms like "holdings" and "dicta" and "rules of law" in both their legal writing and other traditional first year courses. But what does "Rule" actually mean in the IRAC/legal writing context? As all practicing lawyers know, good faith legal arguments (and many winning ones) often proceed from language in cases reformulated as propositions of law. Propositions that first year professors might dismiss as "dicta". Thus, there are "Rules" and then there are "rules," and students should understand the concepts, differences, and uses of both when they are taught legal writing.

Moreover, the critical lawyering lesson for those of us teaching first years is to stress that the true overall organizing tool of the lawyer's written work is the story—the perspective and applicable legal themes—of the client. A document strictly adhering to the IRAC format is often fragmented and compartmentalized. Indeed, it is the notion of an over-arching theme and framework to legal argument that, we find, most difficult to teach within the IRAC constraints. We agreed that the ways in which we have tried to apply IRAC to both the "large" conceptual elements of the writing and to the subordinate derivative issues were unsatisfying. In fact, we found teaching students how to apply IRAC to different aspects and components of a particular piece of advocacy sometimes counteracted one of its major advantages — the simplicity of its application.

In sum, although during our conversation the pitfalls and inadequacies of IRAC seemed at times more compelling than its advantages, we finally agreed that the approach served as a useful building block from which to construct more sophisticated approaches to analysis and writing. Indeed, pedagogical considerations aside, if one remembers that the two most common emotions first year law students experience are confusion and panic, IRAC's stolid accessibility may be its greatest attribute.

[1]   See James A. Gardiner, Legal Argument, The Structure and Language of Effective Advocacy (1993).

[2]   See Richard K. Neumann, Jr., Legal Reasoning and Legal Writing, Structure, Strategy, and Style (2d ed. 1994) (presenting as paradigm: conclusion, rule, rule proof, and rule application).

RAFADC, NOT IRAC
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A Far Side cartoon shows two scientists staring at an elaborate equation on the blackboard

with one scientist pointing to a blank spot in the middle of the equation and advising the other that "in here, a miracle happens." To me, this discussion could very well be about what occurs between the statement of the rule and arriving at the conclusion in IRAC.

IRAC gives my students little guidance on how to construct a legal argument based on reasoning by analogy. It gives me little assistance in helping my students see more than one side to an argument or in helping them to make full use of their facts. My beginning students often have no problems with developing the rule, and they rarely have problems with making a conclusion, even if they have omitted everything inbetween. However, they almost always have problems with what goes in the middle: developing a sufficiently complete legal analysis of a point where the legal analysis moves logically from the thesis to the conclusion and where it gives support to the conclusion.

To help guide my students through analogistic reasoning and to help them develop a more complete legal argument, I have developed an alternative tool: RAFADC (pronounced 'raffa-duck'). While the acronym initially produces chuckles, it works well for my students in helping them master the analysis of a point. The components of this tool are:

Rule: The rule may also be the thesis sentence for the paragraph. It should be preceded by a transition or transition sentence that connects the rule with the analytical framework for the document.

Authority: The authorities provided here include those that give support for the rule and that help factually illustrate the scope of the rule.

Facts: These are the facts of the problem that are relevant to the point.

Analogize/Distinguish: The writer would analogize and distinguish the facts of the problem with the facts of the authorities to determine if the facts of the problem are within or without the scope of the rule.

Conclude: The conclusion would reflect how a court would most likely rule on the point.

In addition to giving me a tool to help guide my students through analogistic reasoning, this tool allows me to show my students how different types of arguments would vary RAFADC's application without the students getting too lost. For example, if the point involved evaluating a split of authority, more of the discussion would occur with the authorities portion of RAFADC; but if the