

Reason means Power of thinking.

Scientific legal Reasoning - Legal reasoning to process of thinking come to decision of law. Law is a mean of social control it cannot be studied in isolation. Law has to be studied with sociology. Law attempts to resolved current conflicts it maintain continuity with the past and controlled futures by laying down future for approaching theories.

For e.g. Every judgement or decision has to take into past decision and statute. The present situation or particular case and its impact on future activities.

Basic components of Legal Reasoning

1. Logic.
2. Justice.
3. Experience.
4. Policy.

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1. Logic :- Logic refers to the internal consistency and equal application of law. A formal logic is a science or deriving a conclusion from statement. It is not directly concern with true or false. A person can obtain false but logically correct conclusion from false statement. Logic prefers to correct application of precedent and equal application of law.

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2. Justice :- It is very important for law without justice we cannot achieve end of law. Justice is divine to the right of parties. Philosophical thought is an important part of justice though it is based on evidence.

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Experience - It is very important component of legal reasoning. Experience gives powers to give good legal judgement.

4. Policy - The term policy may described as process of approaching a problem. Policy is used as means of scientific attempt to look into future or the effect or impact on future cases or society regarding a particular judgement among the 4 components logical reasoning is an concept of legal reasoning & scientific expression are based on logical explanation.

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Logical thinking is the important feature of legal reasoning. Every science is based on the principle of logic or reason. science includes the rules of reasoning or use of arguments.

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Arguments are made on basis of connection, relationships, association, property and common variable something in common. Arguments can be divided into.

1. Deductive method.
2. Inductive method.
3. Inverse Deductive.
4. Analogy.
5. Fortiori.

1. Deductive method :

The method of study of phenomena by taking some assumption of deducting some conclusion from these assumption is known as deductive method. There are many assumptions. Deduction is the process of reasoning from General to Particular or universe to Individual. Deductive is the

part of scientific method it is basically deductive approach. According to the tenets of the logic of deductive logic uses general statement as the basis of argument. The core of common form of logic is Syllogism - it means

- e.g. Man is mortal.
- Socrates is man.
- Socrates is mortal.

The researcher in this method use the reasoning above the whole in order to arrive in a particular idea this process is called deductive reasoning. Lombroso

1. An Italian Criminologist observed that peculiar physical features among the criminals and by using a logical deductive thinking give following observation: Criminals by birth are distinct type of persons.

2. They can be recognised by stigma or various anomalies ~~by~~ ~~low~~ such as a asymmetric cranium.

3. Long lower jaw, flattened nose, scanty beard, low sensitivity to pain these physically anomalies identified the physical personality of criminal & behaviour. Such persons commit crimes are easily following prey for criminal activities.

Steps in Deductive method.

1. Exploration of the problem.
2. Setting up of the hypothesis of assumption.
3. Theoretical development of hypothesis.
4. Verification of theories.

Merits

1. it is very powerful.
2. simple method.
3. substitute for experiment.
4. Actual and exact.



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Deductions

1. It requires high degree of logic of reasoning.
2. There is always danger to building in applicable models.
3. Not applicable for all types of studies.
4. This method is valid only under assumed conditions.

2. Inductive method :

Induction is most oftenly used method of scientific research method. It is the process of reasoning from particular to general. Inductive method is also known as Historical or experimental method. It also has got practical approach to research problem. This method removes the gap between theory and practical. It examines the cause and a relation is established between them. Inductive reasoning starts from a fact from which a general conclusion is drawn.

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Syllogism

Man A died.

Man B died.

Man C died.

All men are mortal.

Dr. Goring is an e.g. of Inductive reasoning. He conducted a research on Lombrosian concept that the criminals have distinct criminal physical type of persons. He made observation thousands of criminals and non-criminals and came to conclusion that their is non-behaviour and physical anomalies as according to Lombroso theory.

Merits of Inductive methods:

- 1. More realistic
- 2. Possibility of verifications.
- 3. Proper attention to complexities.
- Dynamic approach.

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Demerits of Inductive methods:

- 1. It is difficult method.
- 2. A new comer / new beginner / new man cannot adopt such method.
- 3. Cost is more or costly method.
- 4. Danger of bias.
- 5. Limited scope of verification.
- 6. Limited use in social studies.
- 7. This particular method is object regarding science.

In socio-legal studies the study of problems of human being as such method has got limitations. Prof Marshall said that induction and deduction both are needed for scientific study as the right of left foot is for walking. E.g. A

A deductivist is like spider spinning of theories from within the extreme.

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3. Inverse Deductive method:

In this method there is combination of inductive generalisation obtained by comparative methods or by statistics. It is a method to arrive at reality through experiment observation and conclusion. This methods starts with deductive method of them it uses method of induction to find out the reason of particular phenomena.



Thursday 4 Analogy :-

In this particular process there is reasoning between parallel cases in this method there is resemblance or agreement of two cases things or issues. J. S. Mill said that two things resembles each others a certain preposition is true of one therefore it is true here also a case law involves reasoning by analogy. In Judiciary no. of points of resemblance are applied between cases and old rule to the new cases (Precedent).

5. Fortiori :- Fortiori is another method of reasoning. It provides that if something is prohibited then it is assumed that anything more obvious is prohibited.

e.g.: P.C. P.N. DT. abortion of female fetus is ban then sale of tablets to miscarriage the pregnancy. Then all the things or way in which abortion can be caused is also banned if it is covers under prior ban.

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