

# Legal reasoning essay sample



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Legal Reasoning is a reasonable reasoning before the decision had been made. Legal reasoning required us to consider the criteria beyond those imposed by the strict necessity of logic. It has followed certain criteria or rules which applied in practical reasoning. For an example, a judge has to give judgment by following the precedent case and Federal Constitution, legislators have to predict the impact of their laws before amendment whereby following the two-third majority of Parliament and lawyers have to advice their clients by obeying the bar council. Therefore, the key link between all these activities is that they are built upon some kind of reasoning process. In short, the answer founded by judges, lawyers and legislators are not only based on the pre-existing knowledge of the law, but there is creativity of working out an answer according to a whole range of supposedly rational criteria. However, difference reasoning from having a reason.

Reasoning reflects a particular kind of decision making process. The process of deciding on a given course of action based on rationality. It is important to distinguished reasoning from the colloquial ideal of “ having a reason”.

Because the people are quite relaxed about the use of language, it is easy, but wrong, to think of reasoning as simply a matter of cause and effect. But it is not, reasoning is the ability to arrive at a rational, calculated decision.

Eg. As such, if Aaron punches Terence because Terence had called him names, Aaron has a reason. Aaron is angry with Terence and has decided to hit him. This is the most probably emotional response, it lacks rationality and anger has got in the way of the reasoning process. If now would Aaron still have punched Terence if he knew that Terence’s brother was a champion

national boxer? Surely not, right? Because logic apply and Aaron will know that he will be beaten up by Terence's brother.

It is a law where we all know that surely Terence's brother will surely knock out all of Aaron's teeth. It is also simply known as the law of revenge. Thus, this emphasis upon rationality means that we all are essentially grounding legal decision in the mental process we call logic. As such, there is a link between law and logic. By referring the case of *Hedley Byrne v Heller & Partners* where Lord Devlin states "... The common law is tolerant of much illogicality, especially on the surface, but no system of law can be workable if it has got logic at the roof of it..." Logic provides a common place basis for decision-making, by helping us to actions in a way that makes sense.

Eg. As such, If I had only 10 ringgit to go back to Melaka after my class by taxi, logically I cannot use the money for anything else, if not, I can't go home by taxi. Logic says that , in similar, the law also provides that if spend the money on anything else, then surely you won't be going back by taxi. Hence, logic plays a big part in legal argumentation. Structured form of discourse which involves passing from one proposition already known or assumed to be true, to another distinct from the first, but following from it. The classic example of the logical reasoning process is called syllogism is a verbal structure which draws a true conclusion. Syllogism is a verbal structure which draws a true conclusion from a major and minor premises. Eg. All men have adam's apple

Varun is a man

Therefore, Varun also has adam's apple

For Varun's case the logic is impeccable.

The conclusion is inescapable. This is one of the logical reasoning. Logical reasoning - inductive and deductive

| Inductive Reasoning| Deductive Reasoning|

How to apply| Observation of the machines and arrive at general conclusion|

General knowledge and predict a specific observation| Example| When the motor cycle goes over the bump and engine misfires, and then goes over the bump, the engine misfires, and then goes over a long smooth stretch of the road and there is no misfiring, then goes over the fourth bump, and the engine misfires again. One logically concluded misfiring caused by bump| If the reading hierarchy of facts about the machine, the mechanic knows that the horn of cycle is powered, exclusively by electricity from the battery, then we can logically infer that if the battery is dead.

| Modes of reasoning| Does not provide the same degree of certainty /

Inconclusive| So long as the major and minor premises are correctly constructed, the conclusion must be true| Why?| We can reach our answer inductively on the basis of an assumption that our particular experience is of general application. Pirsig = our assumption is likely to be accurate and the more info we have supporting our hypotheses, the more likely it is stand up in future. But in terms of formal logic, we cannot say that our conclusion is conclusive.

There is always the possibility that another conclusion exist.| Everyone has that knowledge. Just like everyone know that killing people is a crime. So that the general knowledge applied when the cases is happened.| Patrick

Shaw experiment| \* Drivers were urged to use only dipped headlights at night \* Shown that number of accident had fallen \* However, it subsequently founded that there had been fewer vehicles on the road than usual during experiment, so the press had not really got it right \* Correlation \* The relative inconclusiveness of inductive reasoning is a point to which we shall return shortly| |

### Decision Analysis Method

1) Structure problem: make sure you know who you are and for whom you are acting; in practice, begin to establish the parameters of your theory of the case (identify your relevant facts) 2) Identify alternative courses of action: Eg. Do the facts disclose an action in contract or tort. (eg. The possibility of an action on the basis of both negligent misrepresentation and negligent misstatement); civil or criminal proceedings; multiple or alternative grounds for proceeding (eg. Theft and handling of stolen goods; innocent or negligent misrepresentation); a court action or some alternatives form of resolution (eg. A common law action for wrongful dismissal and an unfair dismissal claim before an industrial tribunal) 3) Determine your objective: What does the client want?

4) Assess the consequences: Make sure your alternative courses of action achieve the objectives you have identified 5) Identify and account for uncertainty: The main uncertainty you face, gaps in the facts, alternative arguments that may be constructed from the same facts; contradictory precedent; ambiguous wording 6) Evaluate your remaining alternatives:

Taking into account the uncertainties you face, decide which alternative come closest to achieving your objectives.

Conclusion: In my opinion, I think that deductive reasoning is better than inductive reasoning because deductive reasoning is the reasoning logically understanding by peoples. Everyone has the general knowledge about the common sense to predict the observation and made the decision as MacCormick puts it , deduction comes in only after the interesting part of the argument, settling the ruling in law, has been carried through. However, lawyers or judge use both inductive and deductive reasoning to produce a reasoned conclusion whereby using the 3 step of Edward Levi's approach.