

Thinking Like a Lawyer: A New Introduction to Legal Reasoning

By Frederick Schauer

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This primer on legal reasoning is aimed at law students and upper-level undergraduates. But it is also an original exposition of basic legal concepts that scholars and lawyers will find stimulating. It covers such topics as rules, precedent, authority, analogical reasoning, the common law, statutory interpretation, legal realism, judicial opinions, legal facts, and burden of proof. In addressing the question whether legal reasoning is distinctive, Frederick Schauer emphasizes the formality and rule-dependence of law. When taking the words of a statute seriously, when following a rule even when it does not produce the best result, when treating the fact of a past decision as a reason for making the same decision again, or when relying on authoritative sources, the law embodies values other than simply that of making the best decision for the particular occasion or dispute. In thus pursuing goals of stability, predictability, and constraint on the idiosyncrasies of individual decision-makers, the law employs forms of reasoning that may not be unique to it but are far more dominant in legal decision-making than elsewhere. Schauer's analysis of what makes legal reasoning special will be a valuable guide for students while also presenting a challenge to a wide range of current academic theories.

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Editorial Review

Review
This book will belong on every law professor's and law student's bookshelf--and on many others' bookshelves as well. (Lawrence A. Alexander, University of San Diego School of Law, author of *Is There a Right of Freedom of Expression?*)

Schauer is a leading scholar of jurisprudence and legal process, and his new book is as comprehensive, thorough, and sophisticated an introduction to legal reasoning as it is a lucid one. All of the bases are covered, and law students, teachers, practicing lawyers, and judges alike will gain perspective and insight from seeing the entire range of legal reasoning techniques laid out before them. (Richard A. Posner, Judge, U.S. Court of Appeals for the Seventh Circuit, author of *How Judges Think*)

Thinking Like a Lawyer is by far the best available introduction to legal reasoning, of interest to law students and their teachers alike. It should be enlightening to the general reader as well, who will learn what, for better and perhaps for worse, distinguishes 'thinking like a lawyer' from other approaches to analyzing social problems. (Sanford V. Levinson, University of Texas Law School, author of *Our Undemocratic Constitution: Where the Constitution Goes Wrong*)

Thinking Like a Lawyer is well-designed to work for first-year law school classes. It covers the most important themes relating to law and legal reasoning, and manages to do so in ways that are accessible and thought-provoking. (Brian H. Bix, University of Minnesota, author of *Jurisprudence: Theory and Context*)

A welcome complement to [Edward] Levi's approach, as well as being easier for the legal novice to understand. Yet Schauer's book also offers the lawyer and scholar useful perspective on what he or she does. (Brian Leiter *Times Literary Supplement* 2010-02-12)

Thinking Like a Lawyer is excellent reading material for anyone wishing a deeper and more nuanced--even a more magnanimous--understanding of the motivations behind law's often convoluted pronouncements. (John Azzolini *Law Library Journal* 2010-02-01)

About the Author
Frederick Schauer is David and Mary Harrison Distinguished Professor of Law at the University of Virginia.

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