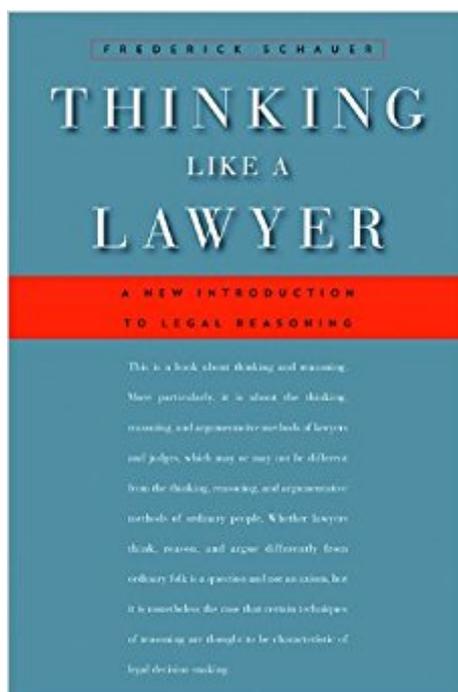


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# Thinking Like A Lawyer: A New Introduction To Legal Reasoning



## Synopsis

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.

## Book Information

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## Customer Reviews

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)

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

I just finished "Thinking Like a Lawyer" and I have to say it was a good book. It is a great addition to Hart or Levi, but not a replacement. Schauer has some great insights and an easy to read writing style which makes his book accessible. I do agree with some other commenters that have raised the issue of brevity and repetition, though given the audience (non-lawyers or 1L) I was willing to forgive and read a repeated point once or twice. I thank Frank Schauer for his book and would gladly recommend it.

I read this as a 0L and I'm glad that I did. It focuses mostly on the rationale behind court decisions and explains why decisions which seem unfair are actually in the broad scheme of things the right legal decision. It also discussed jurisdiction in terms of authority and burden of proof and the chapters on those subjects were illuminating. Some of what Schauer has to say is common sense, for example I thought much of chapter 2 was self-evident after reading a law 101 book, but I still

think I learned enough to justify buying Schauer's book. My biggest complaint is that he is long-winded and repetitive at times. There's an argument for his repetitiveness which is that he wants to make totally sure that you understand a concept before moving on. Plus, in the first chapter of the book (which I thought was a total waste of time reading) he says that he will repeat himself at times because he assumes people will read this book in chunks. But despite the argument in favor of the repetitiveness, I think he could trim the book down considerably if he cut down on the myriad of examples and had a less pretentious writing style. I also remember reading about 10 pages of a concept which had minimal importance to American law and had mostly to do with British law (I think it had to do with court opinions, but it was not in the judicial opinions chapter). On the whole I'm glad I read the book and I would suggest it to other OLs.

Good Reference source; and follow on material. Depth of the material has firm potentials to cover further along studies.

I am not a lawyer but I like Schauer's very exhaustive style of arguments. It was a very good introduction for me (the fundamental difference between rule-based and precedent law systems were particularly eye-opening for me). People with some previous law knowledge may find the content too self-evident, however.

"Thinking Like a Lawyer" is an excellent philosophical analysis of basic legal concepts such as rule, precedent, analogy, and discretion. It would make a great gift for any second-year law student who wants to step back from her 1,000-page casebooks and make sense of the basic building blocks of the law. "Thinking Like a Lawyer" won't help this student (or anyone else) write briefs, argue in court, or counsel clients, but it will enlarge her mind and deepen her understanding of the uniqueness of legal reasoning. Six stars.

No problems with order would recommend

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