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The sublime and ancient mystery of IRAC

The Issue: What is the essence of the question you have been presented with?

The Rule: What are the core theoretical principles that should guide your answer?

The Application: How does the rule apply to the issue at hand?

The Conclusion: What conclusion should be drawn about the question presented?

IRAC is the core of the legal method of thinking and true mastery of its subtleties is what gives lawyers and judges their true power. Use it wisely grasshopper.

1) Problem: Who would be the best people to target with a new advertising campaign for Coca Cola and why?

Issue: Who are the best people to target with an advertising campaign for Coca Cola?

Rule: According to Zaller people have a probability of sampling a given attitude that is related to their likelihood of accepting a message given that they have received it.

Application: People who are well informed about the product will have already formed an opinion based upon exposure to many considerations and are very unlikely to change their minds. People who are poorly informed about the product will be very easy to persuade if you can get your message to them, but they are probably poorly informed because they do not attend to the media where you would be advertising, so it might be very difficult to get any new message to them. People who pay a moderate amount of attention to the product are most likely to be persuaded by a new ad campaign because they have a decent chance of receiving the message, their attitudes are not completely crystallized and they will be more likely to accept a new consideration, and since they are likely to accept a new consideration they will also be more likely to sample that consideration when they are making a purchasing decision.

Conclusion: The best people to target with a new advertising campaign for Coca Cola would be people who pay moderate attention to information about Coca Cola.

Concise answer: According to Zaller's RAS (receive, accept, sample) model (**R**), the best people to target with a new ad for Coke (**I**) would be those who pay moderate attention to the media (**C**) because their probability of receiving the new considerations posed by the new ads would be moderate, they will be moderately likely to accept the new message since they are more likely to have received and accepted a moderate mix of messages in the past, and because they have only received a modest number of previous messages they will be moderately likely to sample the new message while the low awareness consumers will be very difficult to reach and the high awareness consumers will already have crystallized their views (**A**).

2) Problem: An alcohol addicted woman gives birth to a child that subsequently dies due to fetal alcohol syndrome. The District Attorney wants to charge her with homicide.

Issue: Can an alcoholic who gives birth to a baby with fetal alcohol syndrome be convicted of homicide when her baby subsequently dies of the disease?

Rule: A homicide is the intentional killing of a human being with malice aforethought.

Application:

Conclusion: The woman cannot be held guilty of homicide.

3) Problem: Is the decision to vote in an election caused by nature or nurture?

Issue: Are biological factors (nature) or environmental factors (nurture) driving the decision to vote?

Rule: The three data analyses that James Fowler produced suggest that the genetic factor contributes to between 53 and 72 percent of the likelihood of someone participating in politics in statistical model composed of additive genetic factors, the shared environment, and the unshared environment.

Application:

Conclusion:

4) Problem: Your nephew is the black sheep of the family, but has always done well at his slacker high school despite his methamphetamine use. He is on his way to college and insists that his strategy of getting really cranked before an exam will work just as well at college.

Issue: Should your nephew take a stimulant before his final exams in college just like he did in high school?

Rule:

Application:

Conclusion:

5) Problem: Because of the dismal economy you are stuck in a job folding clothes at the GAP. You are miserable, but you want to be happy.

Issue:

Rule:

Application:

Conclusion:

“When you can snatch this argument from my hand ...”

IRAC Examples

1) Problem: According to Dworkin, what is “Law’s Empire” and why?

Issue: What is “Law’s Empire” according to Dworkin and why is that?

Rule: Dworkin says that “Law’s Empire” is a “self-reflective attitude addressed to politics in its broadest sense.”

Application: Law’s domain is not merely about rules (as in Hart’s emphasis) or about empirical behavior (as in Llewellyn’s model), rather it about approaching political decision-making with an attitude of integrity where one interprets precedent and moral principles constructively.

Conclusion: When we approach judicial decision making with constructive interpretation, trying to make the best we can out of rules and precedents, we avoid the conundrums between relativism (like the Critical Legal Studies people) and objectivism (like Natural Law or Formalists) by making better and better legal choices.

2) Problem: Legal positivism is often described as having two core claims: 1) the social thesis and 2) the separability thesis. What are these two claims about? Why might legal formalist Ernest Weinrib disagree with these two claims?

Issue: Why would Ernest Weinrib disagree with the Legal Positivist’s claims of the social thesis and separability thesis?

Rule: For Weinrib, the law is immanent rational and normative. The legal positivists believe that law is a matter of social construction (social thesis) and that morality and law are separable (separability thesis)

Application: With Weinrib, the morality of the law is at its core and its existence not conditional on social convention. Law is ontologically independent.

Conclusion: Weinrib would disagree with legal positivists’ social and separability theses because they directly contradict his central argument about the fundamental nature of law as ontologically independent and rationally normative.

3) Problem: Liberal New York Times columnist Nicolas Kristof wrote about how he took an Implicit Attitudes Test where he was supposed to make a “shoot” or “don’t shoot” decision as he viewed a series of photos where African Americans and Caucasians were holding either a gun or some other object (e.g. a cellphone). He was 15 milliseconds faster at shooting blacks holding a gun than at shooting armed whites. He begins his column “To my horror, I turn out to be a racist.” Why might Beverly Tatum believe this test alone is insufficient for making this judgment?

Issue: Why would Tatum reject Kristof’s judgment that he is a racist based solely on his IAT test?

Rule: For Tatum, racism is a system of advantage based on race.

Application: Merely showing a 15 millisecond IAT result would not, by itself, be convincing evidence that you are supporting a system of advantage based on race.

Conclusion: If Kristoff was engaged in actively fighting against racial discrimination and the system of advantage based on race, Tatum would not consider him a racist and would not be much concerned by the 15 milliseconds.