

Methods and organization of legal studies

5. Methods of legal research. Scientific method.

Scientific method

“The scientific method is the process by which scientists, collectively and over time, endeavor to construct an accurate (that is, reliable, consistent and non-arbitrary) representation of the world.”

http://teacher.pas.rochester.edu/phy_labs/appendix/appendix.html

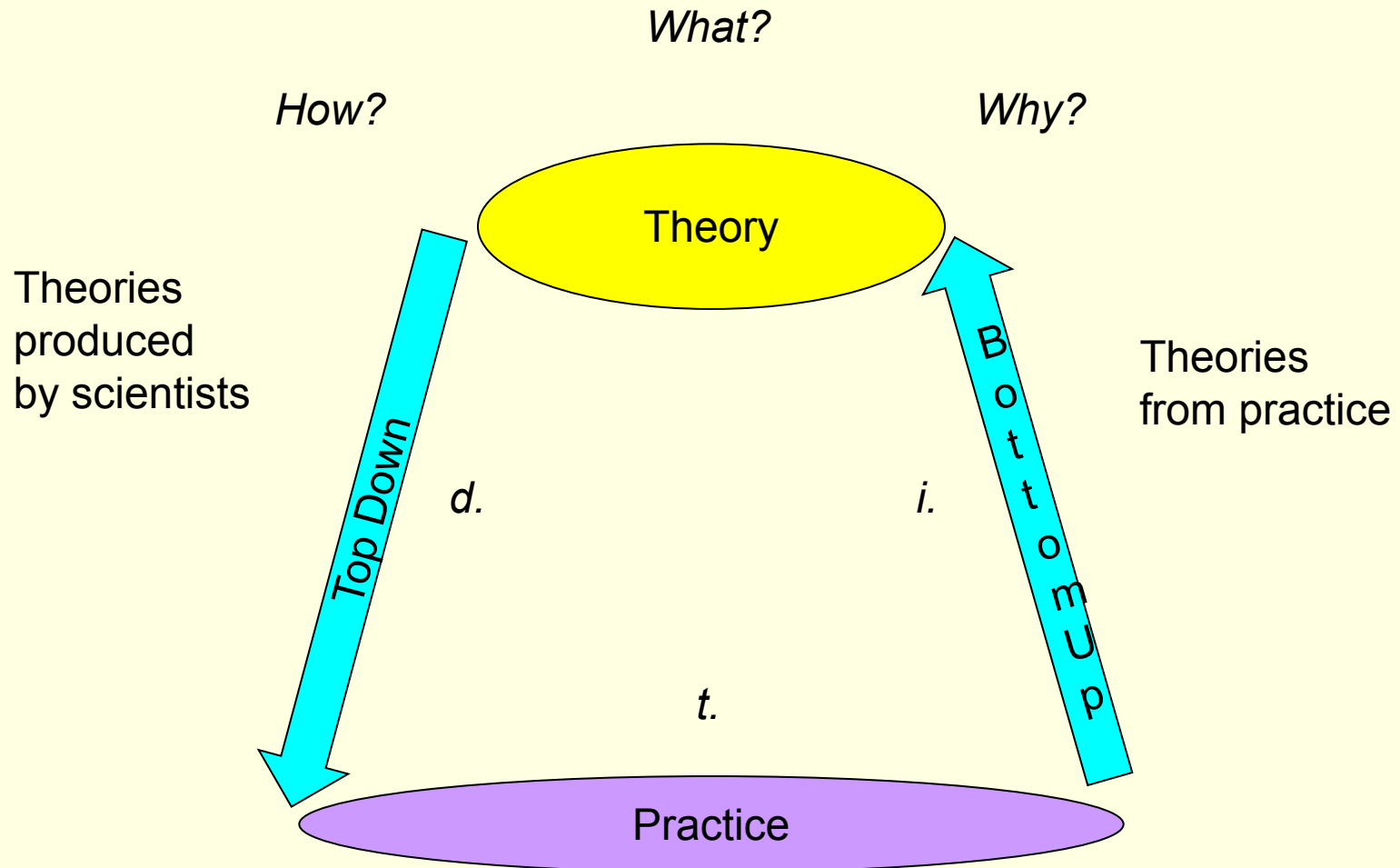
Theory vs. practice

“Theory is when you know everything but nothing works.

Practice is when everything works but no one knows why.

In our lab, theory and practice are combined: nothing works and no one knows why.”

Kinds of theories



Reasoning ways (laws of logic)

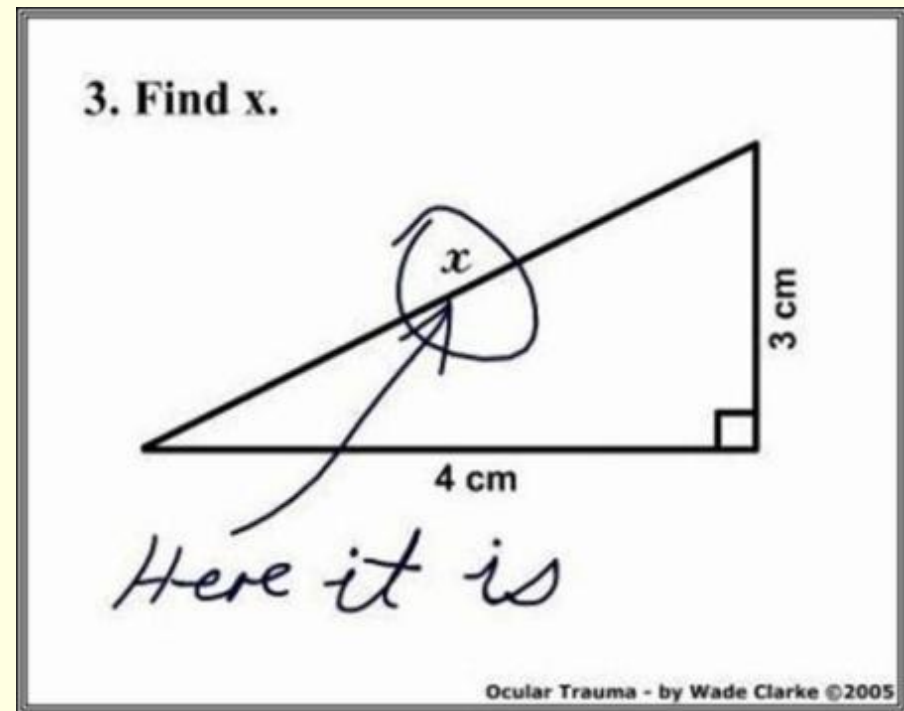
Induction (from specific observation to generalisation, bottom-up approach, complete and incomplete)

Deduction (from general rule to more specific case or top-down approach)

Traduction (same level of prerequisite and conclusion, i.e. specific-specific, analogy)

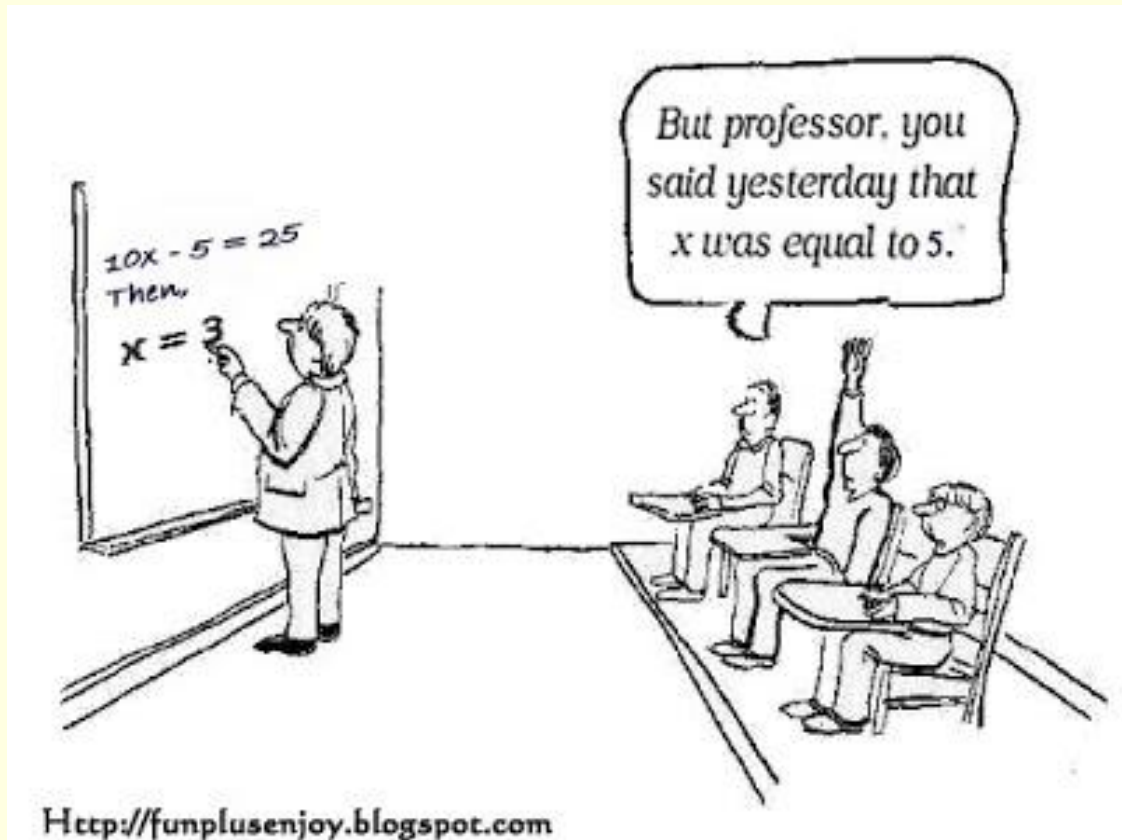
Common mistakes

- scientist's bias on the outcome
- “blindness” to important facts
- Inappropriate tools
- Tools applied in wrong way
- Wrong reason
- Cognitive radicalism or conservatism
- Ignorance of data that contradict hypothesis



Common mistakes

- Wrong reasoning
- Ignorance of data that contradict hypothesis
- Reported that similar research was done already
- Theory vs. practice



Theory vs. practice

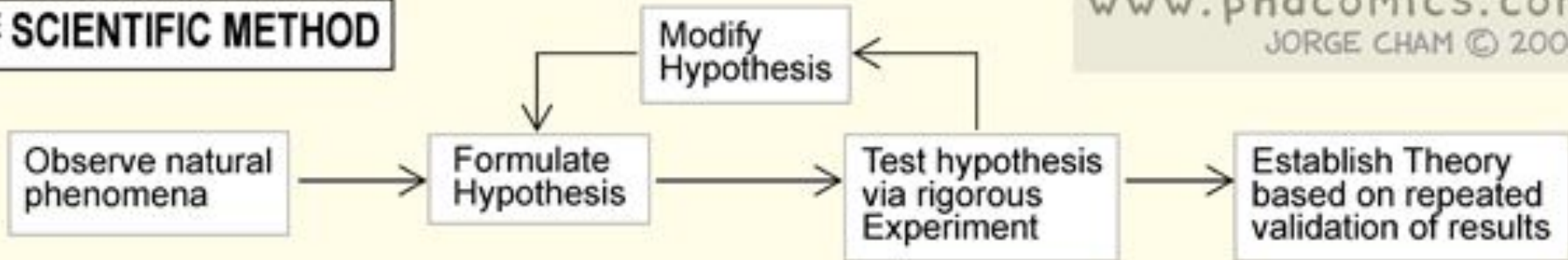
“Darrow has concluded, after a life full of experience with criminals, "if doctors and scientists had been no wiser than lawyers, judges, legislatures and the public, the world would still be punishing imbeciles, the insane, the inferior and the sick; and treating human ailments with incantations, witchcraft, force and magic. We should still be driving devils out of the sick and into the swine."

Fowler V. Harper, 1927

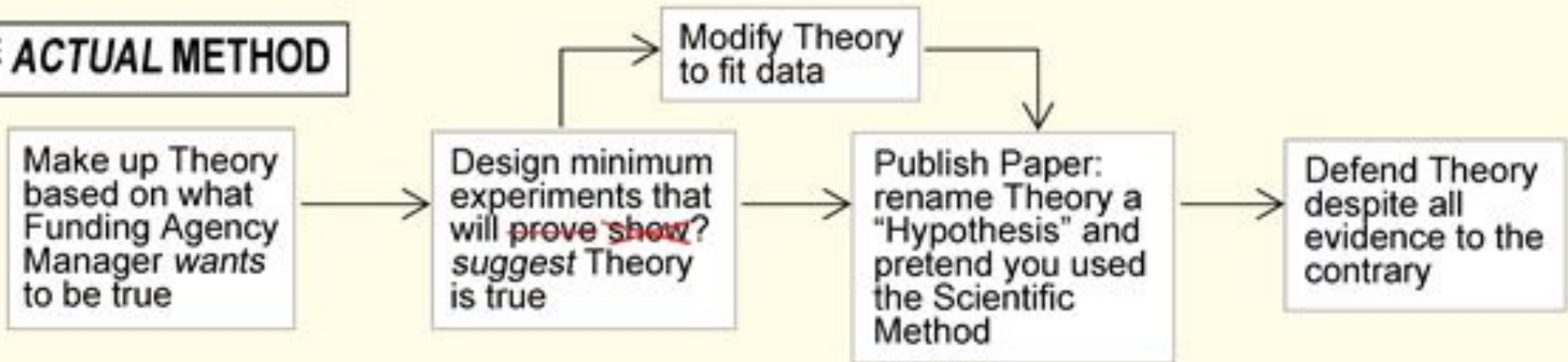
When scientific method is not applicable?

www.phdcomics.com
JORGE CHAM © 2006

THE SCIENTIFIC METHOD



THE ACTUAL METHOD



What's next?

Next topic disclose:

Goals setting, differentiation between goals and objectives...

Homework (**deadline – 11.10.2013**)

What is your goal of:

- *Performing this task?*
- *Discovering topic, that you have chosen before?*
- *Obtaining masters level?*

As usual write and sent me your answers via e-mail

Additional sources:

- http://www.youtube.com/watch?v=k_ICYxU777s (today's video)
- Kothari, C. R. (2004) Research Methodology: Methods and Techniques
- McConville, M., Hong Chui, W. (2007) Research Methods for Law, Edinburgh University Press
- Worster, W.T., The inductive and deductive methods in customary international law analysis: traditional and modern approaches // ssrn.com/abstract=2197104

References

- Harper, F. V. (1927) Scientific Method in the Application of Law // Dakota Law Review, 110. Retrieved from digitalcommons.law.yale.edu/fss_papers