

A new system of logical thinking that lawyers must adopt for legal proceedings and the presentation of evidence

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Abstract

The practice of law requires logical and objective thinking grounded in the fundamental axiological principles of justice and social ethics. However, human cognitive limitations and inconsistencies in the legal literature regarding the formation of scientific thought hinder the achievement of this practical ideal. To understand the logical structure of legal thought and its role in the legal decision-making process, with an emphasis on the presentation of evidence. Based on doctrinal analysis and legal epistemology, this study examines the evolution of the legal scholar's reasoning through a systematic progression across three cognitive phases: notional thinking (assimilation of the facts), propositional thinking (definition of the technical position), and conceptual inference (attainment of procedural truth and legal certainty). A lawyer's legal acumen is consolidated through the integration of scientific and doctrinally grounded principles. This cognitive structure achieves its maximum effectiveness in the evidentiary process, a decisive procedural phase in which the legal expert demonstrates his or her technical expertise to ensure the effective administration of justice and procedural truth.

Keywords: Legal thinking, formal logic, epistemology of law, evidentiary proceedings, procedural truth.

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Un nuevo sistema de pensamiento lógico que debe tener el abogado para las acciones judiciales y aplicación de acto probatorio

Resumen

El ejercicio de la abogacía exige un pensamiento lógico y objetivo supeditado a los principios axiológicos fundamentales de la justicia y la ética social. Sin embargo, las limitaciones cognitivas del ser humano e incongruencias en la literatura jurídica sobre la formación del pensamiento científico dificultan la consecución de este ideal práctico. Comprender la estructura lógica del pensamiento jurídico y su articulación en el proceso de decisión del derecho, con énfasis en el acto probatorio. A partir del análisis doctrinal y la epistemología jurídica, se aborda la evolución del razonamiento del jurisconsulto mediante una progresión sistemática en tres fases cognitivas: pensamiento nocional (asimilación de los hechos), pensamiento proposicional (definición de la postura técnica) e inferencia conceptual (alcanzamiento de la verdad procesal y certeza jurídica). La inteligencia jurídica del abogado se consolida en la integración de principios científicos y doctrinalmente fundados. Esta estructura cognitiva alcanza su máxima efectividad en el acto probatorio, fase procedimental decisiva donde el jurisconsulto demuestra su pericia técnica para materializar la administración efectiva de la justicia y la verdad procesal.

Palabras clave: Pensamiento jurídico, lógica formal, epistemología del derecho, acto probatorio, verdad procesal.

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INTRODUCTION

Throughout its historical development, society has undergone many social upheavals, in which power has been the symbol of victory even in the face of the suffering of the majority due to the consequences of the imposition of ideologies governed by barbarism and a failure to value human existence, life, liberty, and dignity. Thus, within the realm of knowledge, where men and women began to understand their situation, they came to realize that the paths to happiness were governed solely by the simple observation that all human beings possess the same rights, without delay or complicated ideological stances.

With the advent of the legal profession, those who chose to practice this great and dignified vocation committed themselves to learning the principles, values, and doctrines that underpin the very essence of law, justice, and equity.

As time went on, problems began to be addressed through a legal framework that determined factual circumstances and their legality, thereby establishing the legitimacy of cases. This path of development helped instill a sense of peace amid people's despair, allowing them to place their trust in the judges who heard their cases.

However, problems never cease to exist, but justice with its challenges and principles began to reshape the minds of the masses, as judicial authority prevailed, administering justice with the impartiality required by legal doctrine; despite this, certain powers began to interfere in judicial proceedings, and once again, cases brought before that authority were often dismissed unjustly, which created new social discontent, as people once again came to

believe that only the powerful had the opportunity to enjoy the benefits of the law and justice.

However, all was not lost; hope emerged, championed by honest attorneys who knew that the legal battle should not be subordinated solely to the judge's position, but rather, in essence, should be grounded in the evidentiary process that defense counsel in legal cases must apply. This allowed them, through the study of legal science and jurisprudence, to act in accordance with the principles of logic, objectivity, coherence, consistency, and most importantly the application of the simplicity inherent in the law, which is the existence of facts so as not to fall into presumptions or baseless claims that would violate procedural truth, established facts, and the enduring evidence of any act.

It must be remembered that clarity is the philosopher's courtesy, and the lawyer, throughout time and space, has deeply understood that the development of law and legislation is always subject to clarity, simplicity, and the precise application of procedural objectivity.

This has led to the absolutely clear conviction that every legal proceeding will always be centered on the concentration of evidence the act of presenting evidence with the aim of refuting any unfounded challenge to the proceedings, undermining the opponent's position, and establishing a new path for resolving cases over time, subject to the judge's full conviction regarding the matter.

Evidence

If we wish to gain an in-depth understanding of the definition of evidence in judicial cases, we will refer to the doctrinal principle invoked by : "Qui accusare volunt, probationes habere debent";

which means, “Those who wish to accuse must have evidence”; consequently, judicial malpractice is reduced to the inconsistent and the unreal, giving rise to the concept of acts of bad faith, which can be subject to legal action in the same proportionate manner in which they occur.

Therefore, it is common knowledge that the definition of evidence consists of a “procedural activity aimed at demonstrating the existence of a fact or act”; it can be agreed that this legal action is essentially based on the requirement to present all evidence and scientific elements that establish and prove the allegations; and if there is a lack of consistency, relevance, permanence, evidence, sufficiency, and utility, the judges will not and should not uphold the charges.

One of the doctrinal positions underpinning evidence lies in the nature of its probative value that is, what is commonly referred to as “evidence and its burden,” the actual weight that evidence must carry to be substantiated. We cite a doctrinal example of this, invoked as follows: “*Solutionem asseveranti probationis onus incumbit*,” which directly states: “The burden of proof rests with the party asserting that payment was made”; Therefore, cases subject to the evidentiary process must follow the principle of simplicity, whereby, if the allegation cannot be proven, the judge has the duty to dismiss the claim without delay or improper proceedings.

Another issue regarding judicial assessments is to clearly understand that the burden of proving the allegation rests with the party asserting that evidence exists, and it should not be imposed on the party denying such evidence or on the accused; therefore, the evidentiary process for the case must be carried out.

We can cite the philosophy embedded in the work **In Praise of Judges**, which at its core states: "To find justice, one must be faithful to it: like all deities, it reveals itself only to those who believe in it"; that is, the judge's integrity must be strictly proportional to the reality of the concepts underlying the evidentiary system not merely through the application of legal principles, but through the application of ethical principles, which scientifically explain, in essence, the responsibility of "what ought to be" and "what ought to be done" for the sake of justice and equity.

Unfortunately, at the present time, the evidentiary process has deteriorated into the implementation of an accusatory system of an inquisitorial nature, where judicial error is characterized by a failure to respect human rights, reinforced by coercive measures rooted in fear which is the best antidote to social subjugation and which determines the lack of harmony in citizens' lives.

However, it is necessary to address errors and judicial errors; when a prosecutor or judge commits a judicial error, the immediate course of action is rectification that is, there is acceptance and acknowledgment of the erroneous act due to a lack of compelling evidence and its subjection to falsehood, which runs counter to procedural truth. If the judicial official, despite acting maliciously, persists in their conduct, they will commit a judicial aberration; which must be subject to prosecution by judicial oversight bodies and action by the defense attorneys responsible for the legitimate defense of the defendant.

I must point out that, according to legal doctrine, it is strictly observed that the burden of proof lies with the party making the assertion, not with the party denying it; therefore, the judicial system has a duty to thoroughly analyze both its and prosecutorial positions, so as not to undermine justice and equity, and to achieve

an efficient administration of the justice so deeply desired by humanity.

Similarly, prosecutorial reasoning and conduct must be optimized when it is recognized that the party with the law on its side shifts the burden of proof to its adversary, in order to meet standards of proportionality and equal treatment, in compliance with the law and the current procedural system; thereby complying with the provisions of the 2008 Constitution of the Republic of Ecuador, as set forth in Article 11.- The exercise of rights shall be governed by the following principles: 1. Rights may be exercised, promoted, and enforced individually or collectively before the competent authorities; these authorities shall ensure their enforcement. 2. All persons are equal and shall enjoy the same rights, duties, and opportunities.

At the same time, the provisions of Article 172 of the 2008 Constitution must be determined and observed in good faith: "Judges shall administer justice in accordance with the Constitution, international human rights instruments, and the law." Judicial officials, including judges, and other justice system personnel shall apply the principle of due diligence in the administration of justice. Judges shall be liable for any harm caused to the parties due to delay, negligence, denial of justice, or violation of the law."

In other words, it is clearly explained that evidentiary acts within legal contexts are characterized by the pursuit of veracity, procedural truth, and the established fact; this will be decisive in constructing the Theory of the Case, with the aim of obtaining, through scientific procedure, evidence based on the following components: achieving the capacity to subsume the alleged facts under the applicable norms, always in accordance with the

evidence gathered, in order to construct the demonstrative argument that the judge must receive to be fully convinced of the case; to synthesize knowledge of all existing and useful elements that underpin this Theory of the Case; the creation and use of all tools and resources for planning and implementation that strengthen judicial proceedings; one must always identify, with complete objectivity, which acts are relevant in the proceedings being conducted, in order to uncover contradictions and inconsistent or incoherent events; analysis of the facts must always be based on research into statutory sources, the statutory framework, and case law precedents directly applicable to the case, in order to propose legal interpretations and arguments that are directly and legally related to the material facts, thereby complying with the "principles of evidence, which are fundamental guiding norms of procedural law that guarantee a fair trial by regulating how evidence is admitted, assessed, and used (relevance, consistency, contradiction, and immediacy). These principles ensure legality, legitimacy, and procedural truth, allowing the judge to obtain the certainty necessary to render a judgment."; this ensures the objective identification of what each piece of evidence contributes, thereby allowing for the orderly establishment and tracking of what each piece of evidence represents and its probative value; and, finally, a conclusive argument must be presented within the proceedings, without delays or actions contrary to those established by law.

Technical Aspects of Evidentiary Procedures.

One of the greatest challenges for legal professionals is the development of a genuine, objective, coherent, and consistent technique for the practice of law; in addition to the development of common sense, which is oriented toward the pursuit of procedural truth.

To this end, within the analytical framework, the attorney must be certain that there is always a greater and more lofty mountain to climb which means that those versed in the law must always stand alongside and follow a prodigious jurist who, through their knowledge and experience, can contribute to the advancement of legal scholarship.

I am referring in this case to the jurist Dr. Manuel Tama Viteri, who, in his magnificent work, *Graphic Synopsis of Certain Matters of the COGEP* (2017), in Volume II, Part XII regarding the analysis of evidence begins his discussion of the topic with a realistic and benevolent observation, which reads as follows: "It has been said: 'The life of the law lies in the facts,' and these must be proven if a just judgment is to be reached 'the most just of all possible judgments' thus establishing with true accuracy that judgments must be just and equitable to ensure the benefit that is due to human beings.

Within his description of the General Theory of Evidence, this diligent jurist defines for us, using doctrinal technique, the concept of "What is Proof?": "It is to demonstrate to another the truth or existence of a fact." The other party the one receiving the demonstration if they accept it, it becomes truth, conviction, and certainty; that is, when the objective external truth is combined with the internal or subjective truth of the fact presented before them. For the demonstration, APPROPRIATE, SUITABLE, AND SUFFICIENT means are typically employed. (CARDOSO ISAZA)."

Similarly, he addresses the key question: "What is the purpose of evidence?" The purpose of evidence is the facts, Article 161"; this is determined with precision, relevance, and the " " nature of the evidence, as stated in the final paragraph of the COGEP article as

follows: "...The evidence must relate directly or indirectly to the disputed facts or circumstances."

When the legal scholar writes about "What is the purpose of evidence?" with a thorough analysis, he states: "The purpose of evidence is to CONVINCe THE JUDGE OF THE TRUTH OF THE FACT ALLEGED in the complaint, in the defenses, in the counterclaim, and in the answer or counterclaim";

He attributes and presents the following equation formulated by the legal scholar Jorge Cardoso Isaza: $\ll \text{FACT} + \text{EVIDENCE} + \text{RELATIONSHIP} = \text{CONVICTION}.$

If you wish, you may also apply the following syllogism:

"FACTUAL PREMISE + EVIDENTIARY PREMISE + LINK BETWEEN THEM = CERTAINTY."

One of the greatest challenges in the interplay of lawyers' strategies is to seek out and identify the burdensome burden of proof, where logical reasoning must be applied to the intensity of the evidentiary process in the assessment of the evidence, its indications, certainty, and truth, and based on Article 169 of the General Organic Code of Proceedings; Dr. Tama explains this precisely as follows: "Distribution of the Burden of Proof, Art. 169: In judicial proceedings, the burden of proof is distributed as follows:

1. THE PLAINTIFF. The plaintiff is obligated to prove the facts that he or she has affirmatively alleged in the complaint and that the defendant has denied in his or her answer.
2. THE DEFENDANT. – The defendant is not obligated to produce evidence if his or her answer has been simple and absolutely negative.

3.- ON THE DEFENDANT. – If the defendant's denial contains an explicit or implicit assertion regarding the fact, the right, or the nature of the matter in dispute, the defendant is obligated to produce evidence."

Ethical Considerations.

The closest reference to the proper conduct of judicial practitioners will always be contingent upon the application of ethical and moral values, which are being eroded by the interference of personal interests and the malpractice of willful acts against the administration of justice; therefore, it is necessary to return to the application of sound education and technical training for attorneys, judges, prosecutors, public defenders, and other judicial practitioners, so that the identification and adherence to all values that must be upheld in judicial proceedings are ensured, guided by a consistent practice of seeking transparency and professional duty, subject to strict discipline in their conduct.

It is commendable to revive the daily practice of exercises that underpin legal axiology, through which knowledge, understanding, and a pure conception of ethical conduct and the ethical nature of judicial proceedings are achieved; for when a person is prosecuted, by direct association, it causes suffering to society and to the defendant's family.

Recognition of the characteristics of the law such as the general principle that we must all know the law and our rights in order to exercise them legitimately; the imperative nature of the law, whereby legal norms and the law prevail within our territory; and, , the ethical imperative of judicial officials is essential to ensuring regulatory oversight of their conduct.

The commitment to act reasonably and with restraint when we must use coercive measures, in order to prevent abuse, mistreatment, and torture of human beings.

Virtues and ethical values must guide the ethical conduct of legal professionals, so that they may serve as role models and uphold legal principles that establish respect for human beings as the essential foundation of freedom.

Consider the cases involving the handling of an illegal act committed by a minor, where the presumption of innocence is being trampled upon by the new perspectives of judges and politicians, who believe that punitive sentencing, as an act of severity, is the solution when it is important to recognize that minors are mistreated by political society for failing to create structures for mental, intellectual, and spiritual development that ensure their well-being.

For this reason, we will refer to the legal principle that states: “Infantem innocentia consilii tuetur,” which explains that a child’s innocence of intent is protected; which runs counter to the wishes of state administrators who seek to judge minors harshly, knowing that through public policies, it can be legally enforced that every boy and girl must complete their basic education and training in decent schools, and that this requires public social investment, which represents the salvation of a nation’s future citizens.

This is applying the situational truth of society, where >“Truth itself, as well as innocence, constitutes the highest eloquence”<; which means that not everything lies in the manipulation of circumstances as carried out by the media to condemn the acts of minors without first fulfilling the social commitments to guarantee the comprehensive development of children, in order to reliably uphold

the doctrinal principle that states: "Homo simplissime gaudens," meaning "Man who rejoices in simplicity or innocence."

This is because, based simply on the principle of well-founded reason, we establish the fundamental maxim that: "Every person accused of a crime has the right to be presumed innocent until proven guilty, in accordance with the law and in a public trial in which all necessary guarantees for their defense have been ensured."

It is debatable to consider and analyze that the power of justice emanates from the people, who delegate authority to the judicial branch; however, it is also important to highlight the commitment of attorneys, who must adhere to the principles articulated by Dr. Rafael Antonio Terán Varea when he extolled the merits of Dr. Leopoldo Pino in the work: CJS.VII.No.11. p. 1332; "<<To be a good lawyer, one must be upright: the law is the standard of righteousness, and the science of law is the awareness of that righteousness.>>

In strict relevance to our discussion of judges, it is worth citing the following doctrinal principle: "Since the term 'good man' refers to an ordinary judge, wherever that term appears in any law, it must be understood as such. And they even stated that the term 'good man' refers to the ordinary judge of the land. And therefore, wherever it is stated in law or in a provision that something is to be granted at the discretion of a man, it is to be understood that the ordinary judge of the land must grant it."

Likewise, it is held that, "Since all judges must uphold liberty. And we say that it is a rule of law that all judges must uphold liberty, because it is a friend of nature, which is loved not only by men, but even more so by all other animals."

METHODOLOGY

This study was structured using a qualitative methodological design, characterized by a dogmatic-legal and epistemological orientation. The central methodological purpose was to establish a comprehensive model of logical and ethical reasoning in the practice of law, applied specifically to the structuring of case theory and the conduct of evidentiary proceedings within the judicial process. The following sections detail the research paradigm, the type and design of the study, the scientific methods employed, the analytical categories, the body of literature reviewed, the systematic procedure followed, and considerations of scientific and ethical rigor.

The research adheres to the qualitative and hermeneutic-interpretive paradigm (Hernández-Sampieri and Mendoza, 2018). This approach is optimal for studies of procedural law and legal philosophy, as it allows for an understanding of the structures of abstract thought, the nature of procedural truth, and normative and axiological interactions without resorting to statistical quantification, but rather through the critical interpretation of concepts, doctrinal maxims, and legal systems.

Furthermore, the research adopts an epistemological and dogmatic-legal dimension (Witker, 2015). It is epistemological in that it examines the conditions of validity and the genesis of the knowledge that attorneys construct regarding litigious facts; and it is dogmatic insofar as it takes as its frame of reference the set of guiding principles, constitutional norms, and procedural institutions in force within the legal system, specifically in the field of Ecuadorian procedural law.

The research design is non-experimental, cross-sectional, and strictly documentary-theoretical in nature (Vargas, 2019). Variables were not manipulated in controlled environments; rather, existing theoretical, doctrinal, and normative assumptions regarding evidence and legal logic were analyzed and systematized.

Given its level of depth, the study combines two approaches:

Descriptive: In that it precisely defines the properties, characteristics, and cognitive levels that structure the jurist's thinking (notional thinking, propositional thinking, and conceptual inference).

Explanatory and Propositional: Because it is not limited to a mere doctrinal exposition but rather argues the causal relationship between the rigor of logical thinking and the achievement of procedural certainty, proposing a cognitive framework for the attorney's conduct during the evidentiary process.

To ensure internal consistency and methodological validity in the analysis of qualitative and institutional data, the following scientific research methods were applied in a combined and interrelated manner:

This was used to break down the dynamics of the trial and procedural evidence into their constituent elements (facts, means of proof, burden of proof, judicial assessment, and standards of certainty). Following the decomposition and individualized analysis of each doctrinal and procedural component, an integrative synthesis was conducted that made it possible to establish the epistemological equation of procedural conviction proposed by legal doctrine (Taruffo, 2008).

Deductive: The analysis began with general principles of law, universal Latin maxims (*qui accusare volunt, probationes habere debent*), constitutional guarantees, and premises of formal logic to infer their concrete application in the handling of specific litigation.

Inductive: Specific factual situations from judicial practice and the application of the General Organic Code of Proceedings (COGEP) were examined to construct broader theoretical abstractions regarding the inquisitorial distortion of the adversarial system and the need for a deontological rectification.

The exegetical method enabled a literal, systematic, and teleological interpretation of the relevant legal provisions, particularly Articles 11 and 172 of the Constitution of the Republic of Ecuador (2008), as well as Articles 161 and 169 of the COGEP (2014). Legal hermeneutics (Alexy, 2002) made it possible to unravel the deeper meaning of the principles of due diligence, immediacy, adversarial proceedings, relevance, and the burden of proof, linking them to the aims of due process.

It enabled an examination of the conceptual evolution of advocacy and the act of taking evidence, from the aphorisms of classical Roman law to the implementation of contemporary oral procedural models. This ensured an understanding of the continuity of guiding principles over time.

Given the qualitative nature of the research problem, the object of study was operationalized through three central categories of analysis:

Table 1. Categories.

Axial Category	Subcategories / Dimensions	Indicators / Elements of Analysis
1. Structure of Logical-Legal Thinking	• Notional Phase	• Understanding of real-world facts
	• Propositional Phase	• Construction of a theory of the case.
	• Conceptual Inference	• Formulation of conclusions based on the truth.
2. Epistemology of the Evidentiary Process	• Burden of Proof	• Principle of onus probandi.
	• Means of Proof (Admissibility, Relevance, Sufficiency)	• Admissibility and relevance (Art. 161 COGEP).
	• Procedural truth	• Construction of the factual-evidentiary syllogism.
3. Professional Ethics and Procedural Axiology	• General Principles of Law	• Classical Latin aphorisms.
	• Duty of due diligence	• Ethics of judges and litigants

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| • Constitutional guarantees | • Presumption of innocence and best interests. |
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The corpus for analysis was compiled through a theoretical, intentional, and non-probabilistic sampling method (Strauss and Corbin, 2002). The sources of information were organized into two levels:

- Primary (Normative) Sources:
 - Constitution of the Republic of Ecuador (2008).
 - General Organic Code of Procedures (COGEP) (2014).
 - Ratified international human rights instruments.
- Secondary Sources (Doctrinal and Case Law):
 - Specialized works on the general theory of evidence and civil procedural law (e.g., Tama Viteri, 2017; Cardoso Isaza, 1979).
 - Legal compendia of classical Latin aphorisms and maxims.
 - Contemporary scholarly literature on logic and legal interpretation (Atienza, 2013; Ghirardi, 2000).

Phase 1: Heuristics and Document Collection

An exhaustive bibliographic and documentary search was conducted in academic repositories and databases, as well as in applicable legal texts. In this phase, reading sheets and analytical compilation matrices were used to categorize relevant information on formal logic, argumentation, and evidentiary technique.

Phase 2: Hermeneutics and Systemic Analysis

A critical and deconstructive reading of the compiled texts was conducted. Classical aphorisms on evidentiary matters were compared with modern procedural standards. Cardoso Isaza's epistemological equation (*Hecho + Prueba + Relación = Convicción*) was analyzed in contrast to the syllogism of certainty (*Premisa Fáctica + Premisa Probatoria + Enlace = Certeza*).

Phase 3: Doctrinal and Normative Triangulation

An analytical triangulation was conducted between the theory of evidence, the guidelines of legal logic, and the Ecuadorian constitutional and legal framework. This technique made it possible to contrast the normative and doctrinal "ideal" with the methodological deficiencies in professional practice and judicial decisions.

Phase 4: Synthesis, Proposals, and Drafting

In the final stage, the explanatory model of the three phases of a lawyer's thought process was articulated, and the general conclusions of the study were synthesized, finalizing the manuscript in accordance with the requirements of academic scientific structure.

RESULTS

The qualitative, dogmatic, and epistemological analysis of the normative, doctrinal, and axiological sources examined in this study made it possible to operationalize and systematize the findings into three major thematic areas: the characterization of the triadic model of legal-logical thinking, the epistemological structuring of the evidentiary process for formulating the theory of the case, and the distribution of the burden of proof along with its deontological and constitutional implications.

The findings demonstrate that the legal professional's thinking does not follow a static framework or rely on simple memorization of legal rules, but rather constitutes a dynamic cognitive system encompassing both regressive and progressive dimensions grounded in the rules of formal logic and the principles of legal science. The reasoning process through which legal professionals analyze the facts, construct their strategies, and reach scientifically valid conclusions is systematically organized into three consecutive cognitive phases:

Conceptual Thinking

This constitutes the primary stage of apprehending and assimilating the objects, facts, and real-world situations that make up the legal conflict. In this phase, the attorney exercises objectivity and the simplicity of the law, abstracting the factual elements in a purely manner, without resorting to unfounded assumptions or elements lacking real basis. Conceptual assimilation requires a neutral perception of the environment to avoid cognitive distortions stemming from personal memory or subjective biases.

Propositional Thinking

This corresponds to the intermediate stage of analytical processing and critical evaluation. Once the reality of the case has been grasped, the attorney addresses the contradictions and inconsistencies presented by the litigating parties. At this stage, a preliminary legal position is formulated, in which the assimilated facts are categorized according to applicable legal norms, doctrinal principles, and case law precedents, thereby giving initial shape to the hypothesis or defense strategy for the case.

Conceptual Inference

This represents the highest and conclusive stage of the intellectual process. Through the application of rules of deduction and processes of formal subsumption, the legal advisor integrates the factual and evidentiary premises to establish the procedural truth. This inference allows for the attainment of certainty regarding the “established fact,” ensuring clarity and accuracy in decision-making or in the formulation of claims before the court.

The study conclusively establishes that the evidentiary act constitutes the nerve center of the judicial process, as it is procedurally defined as the activity aimed at the objective demonstration of the existence of a fact or act. The effectiveness of the evidentiary act depends on strict adherence to a set of qualitative criteria that determine its admissibility and probative value: relevance, pertinence, sufficiency, utility, evidence, and permanence.

A dogmatic analysis of procedural contributions particularly Cardoso Isaza’s theoretical framework, as analyzed by Tama Viteri (2017) shows that the judge’s conviction is the result of a precise epistemological calculation. Within the scope of this research, two

formal expressions were systematized to describe the process of generating judicial certainty:

Cardoso Isaza's Conviction Equation:

$$\text{Hecho} + \text{Prueba} + \text{Relación} = \text{Convicción}$$

This principle holds that the mere existence of a fact or the simple presentation of a piece of evidence is insufficient; a causal and logical link (relationship) is required to connect the evidence to the factual assertion in order to convince the judge.

Procedural Syllogism of Certainty:

$$\begin{aligned} &\text{Premisa Fáctica} + \text{Premisa Probatoria} + \text{Enlace Lógico} \\ &= \text{Certeza Judicial} \end{aligned}$$

This formulation demonstrates that certainty is the deductive result in which the factual premise (the alleged facts) is validated by the evidentiary premise (the evidence presented), linked by a logical connection that lends plausibility and firmness to the judicial decision.

Based on the integration of these epistemological tools, the results indicate that the efficient articulation of the evidentiary process is achieved through the construction of the Theory of the Case. The essential components identified for the technical viability of the Theory of the Case in procedural litigation are detailed below:

Capacity for Factual Subsumption: The technical ability to precisely frame the proven facts within the abstract provisions of the applicable legal norm.

Systemic Adaptation of Elements: Coherent integration of all relevant resources, data, and evidence that support the central hypothesis of the case.

Interventional Strategic Planning: The design and implementation of methodological tools that optimize the litigant's performance during hearings and throughout the various stages of the proceedings.

Identification of Factual Relevance: Critical detection of the core aspects of the dispute, aimed at highlighting the contradictions, inconsistencies, and incoherencies of the opposing party.

Research and Legal Rationale: Exhaustive analysis of legal sources, statutory provisions, and applicable case law to support legal arguments.

Construction of the Closing Argument: Formulation of closing statements grounded in proven facts, clearly structured, and free from legal delays or ambiguities.

This study examines the rules governing the distribution of the burden of proof in judicial proceedings, taking as its doctrinal foundation the Latin maxims of classical law and their codification in the legal system, specifically in Article 169 of the General Organic Code of Procedures (COGEP) of the Republic of Ecuador.

In accordance with the aphorism **Qui accusare volunt, probationes habere debent** ("Whoever wishes to accuse must have the evidence") and the rule **Solutionem asseveranti probationis onus incumbit** ("The burden of proof rests with the assertor"), the burden of proof primarily falls on the party asserting the existence of a fact or right, while the party who merely denies it outright is relieved of this burden.

Table 2. *Criteria for Allocating the Burden of Proof in Procedural Proceedings (Art. 169 COGEP)*

Party's Procedural Role	Position or Response in the Case	Legally Assigned Burden of Proof
Plaintiff	Affirmative statement of claims and factual allegations in the complaint.	Obligated to prove all facts asserted in the complaint that have been expressly denied by the opposing party.
Defendant	Answer to the complaint based on a simple and absolute denial.	Exempt from presenting evidence; it is not the defendant's responsibility to prove the non-existence of the allegations or claims.
Defendant	Answer that includes explicit or implicit assertions regarding the fact, right, or matter in dispute.	Required to produce conclusive evidence to support the assertions, def, or exceptions raised.

Source: Author's own elaboration based on Tama Viteri (2017) and Ecuadorian procedural law.

The complementary normative analysis, in accordance with the provisions of Articles 11 and 172 of the Constitution of the Republic

of Ecuador, demonstrates that the taking of evidence cannot be separated from the principles of due diligence, equality before the law, and effective judicial protection. Failure by judges or prosecutors to observe due process invalidates the legitimacy of the trial and may degenerate into inquisitorial practices where fear or procedural pressures replace the certainty of legitimately admitted evidence.

Findings at the axiological level reveal that formal-logical reasoning is insufficient if it is not subordinate to essential ethical imperatives: to live honestly, to do no harm, and to give everyone their due. Legal ethics impose on attorneys and judges the social responsibility to ensure the humanization of the judicial process.

The study identifies the destructive impact of judicial error arising from negligence or bad faith in the presentation of evidence. When a judicial officer acts without the support of clear and objective evidence, they have a constitutional obligation to rectify the situation immediately. Intentional persistence in error violates procedural truth and constitutes what legal doctrine classifies as a judicial aberration conduct subject to sanctions and challenges by oversight bodies and judicial prosecutors.

With regard to constitutional guarantees applicable to priority-care groups and criminal or disciplinary proceedings, the findings underscore the continued validity of classic legal maxims such as *Infantem innocentia consilii tuetur* ("A child is protected by the innocence of his or her intent") and *Homo simplicitate gaudens* ("A person enjoys his or her innocence or naivety"). These guidelines affirm that the presumption of innocence is an indisputable premise that places the burden of proof exclusively on the prosecuting body or party.

Finally, the study concludes that the integrity of the legal professional understood, in the words of Terán Varea (cited in the legal doctrine examined), as the very conscience of legal science and the suitability of the judge doctrinally equated with the notion of the “good man” committed to the protection of liberty constitute the indispensable pillars for ensuring that the application of procedural rules results in a just judgment fully grounded in the truth.

CONCLUSIONS

The legal practitioner the attorney practicing law in the community must have as a specific goal the pursuit of logic within the various contexts of their activities, in order to seek the truth. The legal professional must feel an obligation to act with objectivity, which entails applying the fundamental and doctrinal basis of law and justice that is, the straightforward acceptance of reality, or the truth of the matter. The jurist the judge, whose experience is grounded in the accumulation of wisdom and the steadfast pursuit of learning in the face of the dynamism of the law and social cases must inevitably seek to humanize the cases they adjudicate, in order to uphold human freedoms.

Direct adherence to the coherence of their analyses, in the pursuit of justice, will strengthen justice itself. If, in judicial practice, attorneys fail to uphold legal consistency which is based on the application of logic, reason, and comprehensibility the evidentiary proceedings will be null and void. Ultimately, the evidentiary act is the fundamental basis for establishing procedural truth, truth, and factual certainty; these enable the administration of justice with a profound sense of humanism toward the rights of human beings, nature, and all other living beings on the planet.

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