

# PLSC 473: American Judicial Behavior

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September 1, 2015

# Two Models of Legal Research

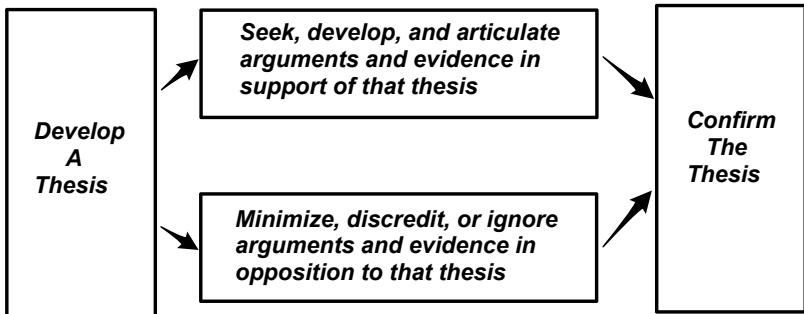
1. **Adversarial** model
2. **Scientific** model

# The Adversarial Model

*“And though all the windes of doctrin  
were let loose to play upon the earth, so  
Truth be in the field, we do injuriously, by  
licencing and prohibiting to misdoubt her  
strength. Let her and Falshood grapple;  
who ever knew Truth put to the wors, in a  
free and open encounter. Her confuting is  
the best and surest suppressing.”*

– John Milton, Areopagitica

# The Adversarial Approach



# The Adversarial Model: Consequences

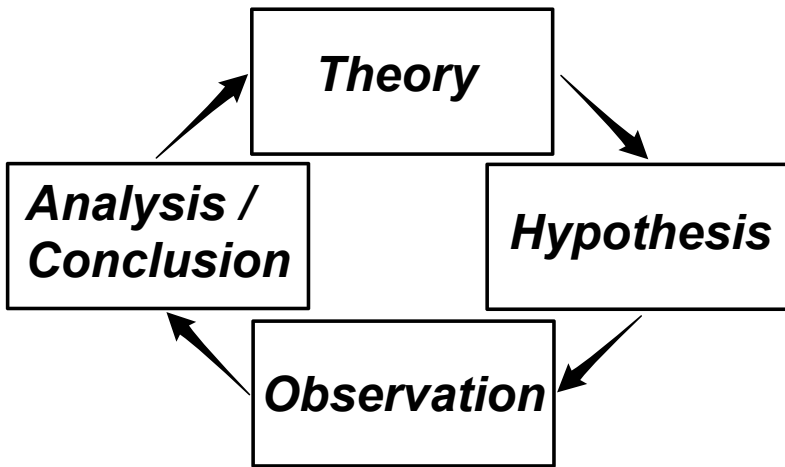
- Language of “truth”  $\rightarrow$  “proof”
- Emphasis on rhetoric / argumentation
- Prioritizing deductive reasoning (over inductive / abductive modes)
- Tendency toward “balancing”

# The Scientific Model

*“The game of science is, in principle, without end. He who decides one day that scientific statements do not call for any further test, and that they can be regarded as finally verified, retires from the game.”*

– Karl Popper, *The Logic of Scientific Discovery*

# (One) Scientific Approach



# The Scientific Model: Consequences

- Importance of patterns/trends over cases
- Emphasis on (measurable) outcomes
- Emphasis on the positive over the normative
- Fixation with *method*



# Key Components of Empirical Research

- Research Design
- Operationalization
- Measurement / Data Collection
- Data Analysis
- Communication of Findings