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INTRODUCTION TO LAW AND LEGAL REASONING

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ABSTRACT

This article focuses on law and legal reasoning. The aim of this study is to discuss about law its history and its importance in our society. The other thing we study in this article is the legal reasoning we focused on the types of legal reasoning and the importance of legal reasoning. We study the literature to better understand the law and legal reasoning. The article studies the latest thoughts on legal reasoning the deductive reasoning in law and the formalism theory of legal reasoning.

INTRODUCTION

The law has an impact on every aspect of our lives; it regulates our actions from the cradle to the grave, and it even has an impact on us before we are born. We live in a community where the actions of its members are governed by a complex set of laws. There are regulations that regulate working conditions (e.g., setting minimum health and safety standards), recreational habits (e.g., banning coaches from football games and drinking on trains), and interpersonal relationships (e.g., prohibiting near relatives from marrying). So, what exactly is "law"? What distinguishes it from other kinds of rules? The law is a collection of laws that are enforced by the courts that are used to control the national government and manage the relationship between the country and its people, as

well as between individuals. As individuals, we are confronted with a plethora of "laws." Certain sports' laws, such as football offside rules or club rules, are designed to keep such events in order. Other types of rules, such as not talking about being ill, are social norms. In this case, the "law" is simply a representation of what the society considers acceptable conduct. We would not expect the standard to be legally effective or to be accepted by the courts in any circumstances.

Laws have a variety of purposes and have varying meanings. For hundreds of years, philosophers have debated judicial and legal questions, and many different approaches or schools of legal thought have arisen. We'll look at these various meanings and approaches in this chapter, as well as how social and political structures intersect with the ideas of various legal schools. We'll also look at the common sources of "empirical law" in the United States, as well as the situations in which some of these sources take precedence over others. We'll also go through some main distinctions between the legal structures of the United States and other countries. Law is a term that has various connotations depending on the context. According to the Black Law Dictionary, a law is "a collection of binding laws of action or conduct devised by a supervisory body. Citizens who face penalties or legal repercussions must obey and observe the rule." S.v. "legal" in the sixth edition of the "Black Law Dictionary."

The law may serve the following purposes in a country: (1) preserve peace, (2) maintain the status quo, (3) protect minorities from the majority, and (5) promote social justice. (6) Be prepared for social order to change in a predictable manner. Some legal frameworks are better than others at accomplishing these goals. While an authoritarian government can keep the peace and preserve the status quo, it can also suppress minorities and political opponents (see, for example, Burma, Zimbabwe, and Iraq under Saddam Hussein). During colonial rule, European countries often practise peace among countries by arbitrarily defining borders. Spain, Portugal, the United Kingdom, the Netherlands, France, Germany, Belgium, and Italy all formed empires in the centuries leading up to the twentieth century. In terms of the role of law, the empire may have kept the peace primarily by coercion, but it often altered the status quo and rarely supported indigenous peoples' rights or social justice in colonial countries.

Various races and tribal factions often made it impossible for a single coalition government to rule successfully in countries that were formerly colonies of European countries. The power struggle between Hutus and Tutsis in Rwanda, for example, resulted in the Tutsi genocide. (Genocide is described as the deliberate and organised murder or displacement of a group of people by another group of people.) The crime of genocide was publicly condemned by the international community in 1948). The withdrawal of the central government created a power vacuum in the countries of the former Soviet Union, which ethnic leaders took advantage of. Following Yugoslavia's disintegration, various ethnic groups (Croats, Bosnians, and Serbs) fought hard for their territories rather than share control. It remains to be seen how various family groups, clans, religions, and ethnic groups can be successfully

incorporated into a national governing body with shared power in Iraq and Afghanistan.

Reasoning by examples is the most fundamental model of legal reasoning. This is how you get from one situation to the next. The theory of precedent outlines a three-step procedure in which the descriptive proposition of one case is converted into the rule of law, which is then extended to subsequent similar circumstances. The procedure is as follows: first, note the parallels between the cases; then, assert the intrinsic rule of law in the first case; and finally, apply the rule of law to the second case. This is a legal reasoning technique, but it has features that might be considered drawbacks in other cases. When legal methods, such as the process of applying general legal laws to various facts, are used, these features become apparent. In other words, it's as if the doctrine of precedent states that once general rules are formed, they should be left alone.

Although the result is not optimal in the latter case. If this is the case, it would be disconcerting to discover that the laws differ from case to case and are rewritten for each one. This shift of laws, on the other hand, is an important dynamic quality of the law. This occurs because deciding which facts are considered identical to those that occurred when the legislation was first announced determines the nature and purpose of the rule of law. A crucial phase in the legal process is determining if there are any similarities or differences. Each judge is responsible for determining whether there are any similarities or differences. Except in the case of regulation, where jurisprudence is considered and there is no statute, it is not subject to the previous judge's rule of law argument. Since the argument is only one sentence long, the judge in this case may believe it has nothing to do with the facts that the previous judge considered important. The former judge's motives are irrelevant. On the contrary, when attempting to treat the law as a reasonably coherent whole, the current judge believes that the definite description should be like this. When you come to a decision, you won't consider what you felt was relevant in the past; instead, you'll focus on evidence that previous judge’s thought hadn't changed. This isn't just so you should at least choose not to look at the rule from other people's eyes. The doctrinal theory, on the other hand, compelled him to make his own choice. A long-standing school of thought holds that today's culture should focus its legal decisions on precedents from the past. Moral reasoning is overshadowed by precedent.

The legal realist school thrived in the 1920s and 1930s in opposition to the historical school. Since life and culture are continually evolving, legal realists argue that some laws and doctrines must be changed or modernised to remain current. The formal application of precedents to present or future legal disputes is less relevant to legal realists than the social environment of the law. Legal realists believe that judges do not always act objectively by applying defined laws to a set of evidence, but rather that judges have their own views, function in a social context, and act in compliance with their beliefs and themselves. To make legal decisions, you'll need some background information.

The advent of the Critical Legal Studies thought school was inspired by legal realists' vision (CLS). "Critics" argue that people with authority, money, and

influence control social order (and law). Some commentators are strongly inspired by Karl Marx, the economist, and his distributive justice theory. The CLS faction argues that the wealthy have traditionally dominated or abused the poor, and that laws have been used to preserve social power. The wealthy have thus permanently distributed inequitable rights and assets in society. Since the law is political, it is neither neutral nor insignificant. The CLS movement would use the law to overturn modern society's governing hierarchy.

The ecological feminist school of legal thinking is related to but distinct from the CLS school. This school has long stressed the superiority of men over women and nature, and it will continue to do so. Ecofeminists argue that the same social concepts that contribute to women's abuse often led to men's exploitation and environmental degradation. They will argue that men owning land contributes to a "dominant culture" in which an individual is responsible for making anything he owns economically, rather than managing the current environment or his "subordinates." "Productivity" is a good thing to have. Wives, children, property, and animals are all considered economic resources, and until the 19th century, the legal system largely granted rights to men on the land. Ecofeminists argue that while women's citizenship and political rights have increased (for example, voting rights), and while some countries accept the rights of children and animals and environmental conservation, the legacy of the past still proves the hegemony of "man" and his role in the natural world in most countries. Women's supremacy is also a problem.

The aim of this study is to add to the body of knowledge in the fields of legal theory and legal reasoning. It aims to test the existing relationship between law and legal philosophy, legal reasoning theory, and legal reasoning theory in particular. The two characteristics of law and legal reasoning that will be especially relevant in this regard are that law is institutionalised and that legal reasoning is formalised. These two characteristics are so closely related that there's a good chance they're just two perspectives on the same topic. As the emphasis of this book changes from the institutional essence of the law addressed in this chapter to the sense of legal reasoning, which will be introduced to us in later chapters, I hope this will become obvious. The word "institution" covers a wide range of terms that, at best, share a close family resemblance. It has a long and illustrious history as a form of legal literature, with roots in research institutes or brief legal discourses dating back to Roman times. The study of so-called "institutional principles" such as commitments is crucial in speech act literature. "Trust" is a special "system" of common law, according to another legal usage. I believe that the presence, consequences, and termination of the concept of "institutional" facts are all dependent on the existence and implementation of laws, as well as the occurrence of certain key facts, and that they can be very effective in coping with certain ideas presented by... literature. Reasoning from a legal standpoint It is not enough to differentiate between "general" and "institutional" facts and use this type of thinking to understand law and legal reasoning. While all agency facts are equivalent, some are clearly more equal than others.

LITERATURE REVIEW

In legal practise, reasoning inside and regarding the law is the most important activity. As a result, jurists argue for what they think is a fair view of the law, and they justify their decisions with arguments. Both tasks necessitate deduction. Lawyers engage in argument as well, but their aims are more precise and specific: when taking a case to court, they must interpret standards and precedents, locate specific cases, and include arguments to back up their conclusions. The case is adjudicated by a magistrate. This is a task in which the rule of law must be discovered and rebuilt. This entails interpreting rules and applying them to particular circumstances, weighing values, resolving contradictions between provisions of the same legal code, observing precedents, and checking and Qualified evidence, among other things. Determine the related case's solution and demonstrate the logic of the chosen solution. Many of these activities are fraught with controversy. Finally, in any developed society, politicians often give explanations to constituents in order to make their deliberations more palatable, implying that even the legislature must engage in reasoning. As a result, it's not surprising that, over the last few decades, legal reasoning has attracted the attention of a number of leading scholars from various disciplines, transforming it into a stand-alone research area. The seminal works published by a group of scholars from the late 1970s to the 1980s who aim to extract general legal doctrines by accepting the centrality of law are most notable in jurisprudence for their involvement in argumentation.

Lawyers have been writing papers on legal reasoning for more than a century, and the number of books and articles explaining, examining, and reformulating the topic continues to rise. The number and persistence of this "endless debate" (Simon, 1998, p. 4) reveals that there is no solid agreement on what constitutes legal reasoning. Legal scholars have an intuitive sense, or at least a strong hope, that legal reasoning is distinct from logic, scientific reasoning, or ordinary decision-making, and hundreds of attempts to explain it have been made. This sets it apart from other approaches to thought. These attempts drew criticism, which prompted critics to come up with new expressions, which drew even more criticism, and so on. In this chapter, I'll go through the various types of legal reasoning, as well as the various schools of legal reasoning and some key distinctions between legal and scientific reasoning. "What legal logic are we talking about?" is the first question. The applicable legal rules will be explained to the jury at the conclusion of each trial, and they will be asked to apply them to the facts they heard in order to make a decision. They must engage in "legal thinking" as part of their duties. Clients tell lawyers ambiguous stories and feel a deep, if nebulous, sense of injustice, and the lawyer's job is to find the rules, precedents, and evidence that are most useful to the clients and incorporate them into convincing cases. This mission necessitates legal reasoning, but the reasoning is motivated by the desired outcome. The aim is to offer the best case for one of the parties, rather than making the best decision. The raw material for the judge's decision is the facts carefully prepared by the prosecutor and the legal arguments presented by the lawyer, but the judge (like the jury) will still use his own expertise and experience, as well as the understanding of the evidence and (different from what happened) the jury). Jurors) each have their own interpretation of the law.

When academics write papers on "legal reasoning," they are essentially writing articles for judges. The lawyer is not required to resolve the case; instead, only one of the parties must make the strongest appeal; the lawyer's argument is addressed in defence courses and works. The jury view the facts to decide what happened and make a decision based on the law given to them in the judge's instructions. Judges may also obtain sufficient legal authority in order to decide whether or not previously existing laws and cases are still relevant. The position of the juror is not to reason about the law; that is the task of the judge. Judges have legal training, are familiar with laws and precedents, and have extensive experience hearing cases and reading other judges' rulings. The jury did not have any explanations for their decision, which is something that judges often do. Finally, the Court of Appeal's decisions make up the majority of the substance of legal reasoning. In these decisions, the judge is mostly concerned with the legal procedure and the law itself, with no regard for who wins or loses, and the judge is almost always required to offer legal reasons. For the sake of their decision. In the history section that follows, I'll explain how basic views on the essence of legal reasoning have evolved over time. Many judges would have adopted the common-sense context hypotheses that existed in the legal community at the time if they recognise their own thought process. Some people, including some of the best judges, have discovered, however, that they cannot really justify how they make their decisions (Holmes, 1897; and Nisbett and Wilson, 1977). In 1921, Benjamin Cardozo began writing "The Essence of Judicial Practice," a classic work in which he discovered that "any judge can easily explain his experience a thousand times or more" (1921, p .9).

Mccormick's Latest Thoughts on Legal Reasoning

MacCormick's legal reasoning theory is well-known among legal academics, so there is no need for a lengthy clarification. Nonetheless, a quick rundown of its key features will aid us in recognising it in its current state. Initially, MacCormick performed a review of legal logic that was somewhat similar to Hart's examination of legal principles. This paper paid little attention to the structure of legal reasoning. In this way, the investigation of the argumentation practise used by the decision-making institution to show the rationality of its decision is manifested in the study of legal reasoning. Since it reconstructs adjudication procedure in its basic operations in a given sequence (analytic part) and how to prove the rationality of legal decisions from a logical point of view, this study is both analytical and normative. a description (normative part). MacCormick examined the various types of legal argumentation and determined the structure and scope of fair limitations that must be met in real judicial practise based on these premises.

Judicial decisions are subject to certain basic logical constraints imposed by MacCormick. The first of these necessitates legal authority based on the universality principle. This requirement was recently clarified by MacCormick, who highlighted two aspects: "First, the explanation must be universal in order for the existing condition C to become the present. Make a justification for decision D and act on it. It is acceptable to hold the form D decision appropriate as long as an instance of C occurs. Second, it proposes a method for deciding if there is ample justification to assert that it is acceptable as long as C and D are

obtained." Another fundamental logical limitation on legal decisions is that they must be based on deductive reasoning. Total deduction or syllogism can be used in legal reasoning. Where there is no question of validity, meaning, description, evaluation, or proof, the sentence will consist of the construction of a legal syllogism or a sufficiently long legal syllogism chain in the form "If it is OF, then it is NC, so it is OF, then it is NC." However, when applied to the legal arena, this method of deductive reasoning, also known as the first-order protection model, would have limitations. Since the legal syllogism's theory may be disputed, and any effort to address the facts and legal problems in the current case must be narrative, these restrictions apply. As a result, if legal reasoning is made to follow a logical path, it will do so according to principles that go beyond classical logic.

The defining criteria for second-order security are these additional standards. In a sense, their aim is to help us choose between competing rulings (all of which are possible because they are all equally true in form) and to provide a justification for our choice. By developing these second-order rationality standards, especially the three basic standards of accuracy, continuity, and result demonstration models, MacCormick made a significant contribution to the study of legal reasoning. He defined consistency as a non-contradictory relationship in which a ruling is consistent with other provisions of the normative system if it does not interfere with any effective rule of the normative system. Consistency is a more versatile requirement that refers to a part's ability to fit into the whole. As a result, both pieces are said to be cohesive by using figurative words to "hang them together" or "make sense as a whole." Finally, the consequentialist criteria directs the decision maker to justify the sentence chosen based on its legal context and acceptability. It is simplified into a formula, according to MacCormick's understanding of the legal defence framework. The decision is rational once it has been generalised, is coherent and consistent with previously promulgated law, and has legally valid significance. The sentence must have value in both your own legal system and the outside world in this protection scheme. The clarity and continuity of a ruling with other normative statements in a given legal system, in particular, means that the ruling has relevance within that legal system. The capacity to be meaningful in the world is guaranteed by the acceptability of the effects of failure (consequential criterion).

The Common Law

The common law was established through precedents, and the court has the power to amend the common law by precedents. You may not have known before starting law school that the court will establish its own legal framework irrespective of the laws passed by the legislature. The notion that there is no legislature to make laws is perplexing and needs to be explained. The existence of common law can be traced back over 900 years, and it has influenced laws and legal terminology that lawyers experience on a daily basis. In the autumn of 1066, a French duke named William of Normandy gathered an army, crossed the English Channel by sea, invaded England, defeated a British army at the Battle of Hastings, and launched an all-out assault on the region. In London, he was terrorised and proclaimed king. Then he seized nearly all of England's land

and distributed it to his Norman converts, who became the new nobles. And he went on to routinely follow the British regime, including the constitution, thus prioritising his own will. British rules were different in different areas before the Norman Conquest, according to local customs. Any rule that people have followed for centuries has always been the law in a village. Since people obey different laws in different villages, the law can be different. The rule is akin to tradition in that it represents the community's opinions of what is right and wrong. William's royal descendants refused to allow this situation to proceed for two reasons. The political explanation is that, in order to complete the conquest, the monarchy must first centralise power and then create a national court made up of royally appointed judges.

The real explanation is that judges in national courts are unlikely to be familiar with local customary laws. The law must be consistent across the country. It needs to be popularised all over the world. The legislature cannot create this customary law. A new legislature with the ability to make laws does not yet exist. What led to the development of the common law? Although the solution is simplified, the judge was able to work it out. They began with a few ground rules that should be present in every mediaeval society. As new circumstances and analogical thinking arose over the years, they encountered new common law laws, as if every rule had existed from the beginning. Yes, however it is concealed. The British settlers in North America ruled by this common law centuries later. Their uprising does not break customary law, and they believe it is justified. His disagreement was with the British government and its leaders, not the other way around. When each colony became a state during and after the revolution, it adopted common law as its state law. State courts are also developing common law today. You'll see examples of this mechanism in the Tort and Contracts course. The legislatures that enacted laws (the British Parliament, the United States Congress, and state legislatures) were formed hundreds of years after the common law was created. The legislature, on the other hand, now has greater legislative authority. The law created by judges is still known as common law. When legislature-enacted legislation expressly violates common law laws, the legislation takes precedence, and the common law rules are obliterated. Common law logic, on the other hand, finds its way into legal practise and science.

DEDUCTIVE REASONING IN LAW

Deductive (Rule-Based) Reasoning

There is a general concept or principle that scientists use in deductive scientific reasoning (see Dunbar and Fugelsang,) to conclude what happens in specific evidence, make assumptions, and design experiments to prove it. There are three possibilities if the prediction is not confirmed: the conclusion is flawed, the experiment is flawed, or the hypothesis is flawed. In deductive legal reasoning, the decision-maker begins with a collection of facts, researches the rule that applies to these facts, and then makes a decision. If Joe's Liquor Store sells beer to Richard, who is 16, despite the fact that laws forbid the selling of alcohol to someone under the age of 21, Joe's Liquor Store is in violation of the law. The logic is simply syllogistic, and the application of the rule in certain cases would

not cause any issues. The term "easy cases" refers to this type of situation. In truth, there are numerous ways to introduce complexity into this seemingly straightforward logical method. First and foremost, decision-makers are confronted with a collection of clear facts. When you're a judge, there are almost always two sides to any storey. Lawyers' task is to plan circumstances in a way that best fits the legal result they want to achieve, which they do by stressing various facts and, in certain cases, different legal precedents. "At the same time, the law decides which facts are important, and the facts decide which laws are relevant" (Burton, 1995, p. 141). There may be a number of laws that apply. There may be some legal provisions that are applicable, and two opposing lawyers may argue that the case should be decided by different laws. Higher codes, such as state or federal constitutions, can be violated by the laws themselves. The rule may be unclear, such as banning "excessive noise" or using the "reasonable person" principle ("Will a reasonable person think his life is in danger?"). The prosecutor will alternate between creating a coherent account of the incident that conforms to the statute and doing legal analysis to find the law that best explains the facts while planning a case. When confronted with two conflicting claims, the judge may select one or offer additional factual reasons or legal considerations that neither party has identified. As a result, even the most basic type of legal reasoning (determining whether the law applies to particular facts) is often difficult to apply in practise. Where there is action, there must be regulation, and the question is, "Does the behaviour adhere to the law?" It's far too easy to use in interesting situations.

Formalism Theory of Legal Reasoning

This "judicial reasoning," in the main thanks to Christopher Columbus Randalls, who was the First Dean of the Harvard Law School, is regarded as a special type of reasoning that deserves to be incorporated in the "Cambridg Manual of Thought and Raison." Legal teaching was modified in 1870. Introduced the case-law teaching procedure; established the picture of a law school between a group of law scholars, who were substantially involved in promoting comparison to science teachers; advocated the legal point of view of reasoning called 'legal formalism' Judicial formalism is essential: "Some of the fundamental categories and values in the higher range form in addition to a large number of the lesser rulings, a conceptually organised structure. The laws are ideally the foundation of precedents themselves. After review, the "principle" can be found (Gray, 1983, p.u). In other words, a rule pyramid is established that contains few simple 'first principles' on top of the rule pyramid, from which a number of complex rules can finally be extracted.

In the face of pending cases, lawmakers examine the contents of the law and find rules which decide the right outcome. Science was the peak of human intelligence in 1870. Lang dell acknowledged that law is a science in order to transform law into an empirical discipline rather than a simple art (Langdell, 1880). He didn't say this, and he declared it very enthusiastically in the Blackstone Review or earlier editions (Kennedy, 1973). An apparent problem with this analogy is that the legal means for experimenting and access to unknown data are not available. "Information" is made up of writings by past judges: "We instilled the impression that libraries are workshops appropriate for

teachers and students, that university laboratories are good for chemists and pharmacists for all of us. All is normal. The Museum of Zoology and the Botanical Garden (Langdell, 1887, p. 124; the emphasis is on the increase). Langdell does not state that the law really applies consistency and abstraction concepts. The beautiful hierarchy of the lowest levels essentially enables these levels to suit every new collection of facts accurately; the objective is to create such an arrangement. Such research is naturally considered to be a closed system of deductions This is unpractical and simplistic in the view of most modern scientists. In the eighth grade we have had views on science, but this never seems to describe our real attitudes.

Behavioural science, in particular, does not seem to be appropriate for this abstract deductive reasoning model (for us, if we consider law as a science, it should be treated as a behavioural science, which seems normal to us). Even as early as 1870, the enthusiasm of experimentation, empiricism, and induction rapidly displaced earlier scientific deduction views. There have been opponents of legal formalism from the beginning. "The existence of law is not logical: it is practise" (Homs, 1881, Page 1), and "General concepts are universal" (Homs, 1881, Page 1) are two popular observations by Oliver Wendell Homes (Jr.). "We aren't seeking to fix individual situations" (Lochner v. New York, 1905, p. 76 objections). The laws and a thorough analysis of principles, according to Holmes and later critics such as Pound, Liverin, and Cardoso, cannot "discover" legal principles, and no matter how meticulous such inquiries are, they will not produce definitive and irrefutable answers. There is overlap and misunderstanding between the boundaries in the simplest situation, except in situations where the decision is taken in one way and another to make a straightforward distinction between cases (for example, for the complainant or defendant in a medical malpractice case), and ultimately the judge makes a definite distinction instead of finding (Cardozo, 1921) Years, p. 167). The distinction is generally subjective rather than factual, and it is influenced by the judge's own opinion on what the right outcome should be. Basic legal principles and norms are relevant and provide judges with a lot of guidance. However, in most situations, they are insufficient to decide the outcome. In judicial opinions, the certainty and inevitability expressed are absolutely irrational. With the advent of more and more intermediate cases over time, the legal system has become more and more intense, and the flaws of formalism have become more and more apparent.

CONCLUSION

Law is a collection of laws that regulate the relationship between the state and its people and are enforceable by the courts. Law can be used to keep the peace, uphold the status quo, protect human rights, protect minorities from majorities, encourage social justice, and ensure that social reform is orderly. Some legal frameworks are better than others at achieving these goals. In deductive legal reasoning, the decision maker starts with a collection of facts, then examines the rule that applies to certain facts before arriving at a conclusion. In reality, complexity can creep into this seemingly straightforward logical method in a variety of ways. It's possible that more than one rule might be applicable. The law decides which facts are important, while the facts decide which laws are important. In 1870, Christopher Columbus Langdell was elected the first Dean

of Harvard Law School. He pioneered the case-based method of law instruction. Lang dell was a firm believer in law as a science. He supported "judicial formalism" as a means of legal reasoning. Langdell did not argue that law, as it stood, had achieved the lovely hierarchical organisation that enabled precise derivations to suit every new collection of facts, from simple, highly abstract concepts down to lower levels.

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