FACULTY OF JURIDICAL SCIENCES

COURSE: B.A.LL.B./BBA.LLB/LL.B.   Semester - II

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Lecture- 06

Legal Reasoning

Learning Outcomes

This module provides for legal reasoning. This aims at following learning outcomes:

- To introduce the concept of legal reasoning and its importance.
- To understand the basic components in legal reasoning.
- To understand the role of logical reasoning in law
- To know about the various types of legal reasoning methods in terms of kinds of arguments.

Content:

1. Introduction.

2. Basic components in legal reasoning

3. Logical reasoning: types and principles

3.1.Types of arguments

3.1.1 Deductive method

3.1.1.a Stages in the deductive method

3.1.1.b Merits and demerits of deductive method

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3.1.4 Analogy

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1. Introduction

Legal reasoning as a concept is a process of thinking which helps a researcher to come to decision relating to law. Law is a tool of social control that attempts to resolve conflicts in the society, to direct current activity while maintaining continuity with the past, and to control the future by laying down procedures, approaches and theories. Every decision must be guided and followed by a logical reasoning which takes into account the past decisions and statutes, the present position of the parties to the cases, and its own impact on future activity.

2. Basic components in legal reasoning

There are four basic components in legal reasoning which applies to legal process—
logic, Justice, experience and policy.

a. Logic refers to the internal consistency and equal application of the law. It refers to more than formal logic, formal logic is the science of deriving a conclusion front stated premises; it is not directly concerned with either true or false. A person can obtain a false but logically correct conclusion from a false premise. Therefore, logic prefers to life correct application of precedents and equal application of law.

b. Justice is to do right between the parties. Philosophical thought is an ingredient of justice though it is based on evidence.

c. Experience is an important component in legal reasoning. The life of the law has not been logic; it has been experience. Experience gives power to give good legal judgments.

d. The last component is the policy. The term 'policy' may be used to describe the process of approaching a problem. Policy is used to mean a scientific attempt to peer into the future and foresee the consequences of a decision. The use of this approach requites the individual to put aside die current interests of the parties and to keep in mind how this decision would affect other persons in future.

3. Logical reasoning: Types and principles

Among the four components, logical thinking is the core concept of legal reasoning as scientific generalizations are based on logical explanations. Every science is based on the

principles of logic or reason. Science involves die rules of reasoning or use of arguments. Arguments are made on the basis of connection, relationship, association, property, common variable or attribute between things and activities mentioned in the argument.

3.1 Types of Arguments:

Arguments can be:

(i) Deductive;

(ii) Inductive;

(iii) Inverse deductive;

(iv) Analogy; and

(v) fortiori.

3.1.1 Deductive Method

The method of studying a phenomenon by taking some assumptions and deducting conclusions from these assumptions is known as the deductive method. Deduction is a process of reasoning from the general to particular or from the universe to individual, from given premises to necessary conclusions. Deduction is also known as analytical, abstract and a priori method. It has an abstract approach to the study of science. Deductive method is a part of the scientific method. It is basically a rational approach in accordance with the tenets of deductive logic. Deductive logic uses a general statement as the basis of argument. Core of the common forms of deductive logic is syllogism, runs like this,

(1) Plants grow in day time

(2) A cactus is a plant

(3) Therefore cactus plant grow in day time

The third statement follows from the first and second statements taken together.

A syllogism consists of a major premise, a minor premise, and a conclusion. A major premise usually states a general rule. In legal arguments, this is generally a statement of law. A minor premise makes a factual assertion about a particular person or thing or a group of persons or things. In legal arguments, this is usually a statement of fact. A conclusion connects the particular statement in the minor premise with the general one in the major premise, and tells

us how the general rule applies to the facts at hand. In legal arguments, this process is called applying the law to the facts.

Example: to qualify as a victim of rape under criminal law there must (1) be sexual intercourse with a women; (2) the intercourse must be without her will. (Major premise; states a rule of law.) Here, the woman had consensual sex. (Minor premise; makes a statement of fact.) Therefore, the plaintiff cannot be a "victim" of rap under criminal law. (Conclusion; correctly applies the law to the facts.)

In order for a syllogism to be valid, it must be logically impossible for its premises tobe true and its conclusion to be false. In other words, a syllogism is valid if, given thetruth of its premises, the conclusion "follows" logically such that it, too, must be true. An argument is not valid simply because its premises and conclusion are all true.

Example: "all teachers are human. Some human are excellent racers. Therefore, some teachers are excellent racers."

Explanation: if read apart, each of these statements is true. Teachers are indeed human. Some human (e.g. athletes) are excellent racers. And as it happens, some teachers are also good racers. But this argument is not valid. The fact that teachers are humans and that some humans are excellent racers does not prove anything about the racing ability of teachers. Based on the information we're given in the premises, it is logically possible that no teacher of the world has ever stepped foot in field for running. Because it is logically possible for the premises to be true and the conclusion to be false, this argument is not logically valid.

The example above is a fallacious argument.
When researchers propose a study of the causal factors of the delinquencies which are on the increase and which seems serious to them, they have some general anticipatory idea as to what to observe and what specific facts in the main would be relevant to their inquiry, even though they may not have realized these implications, Then, on the basis of their observation,-they formulate certain single propositions as to die causal factors of

delinquency. That is, they deduce from die complexities of observed behaviour certain single ideas. In other words, they use a process of reasoning about the whole observed situations in order to arrive at a particular idea. This process of reasoning is called deduction or deductive reasoning.

The following example can be cited for the deductive reasoning:

Lombroso, an Italian, observed peculiar physical features among the criminals and by using the logical deductive thinking formulated the following propositions by taking his observations into consideration:

(1) Criminals are by birth a distinct type of persons;

(2) They can be recognized by stigma or anomalies such as a symmetrical cranium, long lower jaw, flattened nose, scanty beard and low sensitivity to pains;

(3) These physical anomalies identify the personality which is predisposed criminal behaviour; and

(4) Such persons cannot refrain from committing crime unless the circumstances of life are generally favoured.

Deduction is logical reasoning and if we start with good premises, deduction can serve scientific research in three ways:

(1) Deduction helps in detecting the questionable assumptions logically involved in what is believed to be the truth and it multiplies the number of available hypothesis by formulating the possible alternatives.

(2) The logical deduction of its consequences makes clear the meaning of any hypothesis.

(3) The process of rigorous deduction is an aid in the attempt to steer clear of irrelevancies and thus the right principle is found.