The Logic of Legal Requirements

Logic for Lawyers

It is twenty-five years since the publication of Neil MacCormick's book Legal Reasoning and Legal Theory, a book that has been in print continuously since its first publication. This
book looks at how examining legal reasoning can bring up important theoretical and ethical issues, as MacCormick revisits the issues anew in his current work.

Informatics and the Foundations of Legal Reasoning

In the study of forms of legal reasoning, logic and argumentation theory long followed separate tracks. "Legal logicians" tended to focus on a deductive reconstruction of justifying a decision, disregarding the dialectical process leading to the chosen justification. Others instead emphasized the adversarial and discretionary nature of legal reasoning, involving reasonable evaluation of alternative choices, and the use of analogical reasoning. Recently, however, developments in Artificial Intelligence and Law have paved the way for overcoming this separation. Logic has widened its scope to defensible argumentation, and informal accounts of analogy and dialectics have inspired the construction of computer programs. Thus the prospect is emerging of an integrated logical and dialectical account of legal argument, adding to the understanding of legal reasoning, and providing a formal basis for computer tools that assist and mediate legal debates while leaving room for human initiative. This book presents contributions to this development. From a logical point of view it covers topics such as evaluating conflicting arguments, weighing reasons, modelling legal disputes as a dialogue game, the role of the burden of proof, the relation between principles, rules, reasons and facts, and the relation between deductive and nondeductive arguments. Written by leading scholars in the field and building on recent developments in logic and Artificial Intelligence, the chapters provide a state-of-the-art account of research on the logical aspects of legal argument.

The Universal and the Particular in Legal Reasoning

At least since Plato and Aristotle, thinkers have pondered the relationship between philosophical arguments and the "sophistical" arguments offered by the Sophists -- who were the first professional lawyers. Judges wield substantial political power, and the
justifications they offer for their decisions are a vital means by which citizens can assess the legitimacy of how that power is exercised. However, to evaluate judicial justifications requires close attention to the method of reasoning behind decisions. This new collection illuminates and explains the political and moral importance in justifying the exercise of judicial power.

Handbook of Legal Reasoning and Argumentation

Logic, Rhetoric and Legal Reasoning in the Qur'an

This collection contains studies on justice, juridical reasoning and argumentation which contributed to my ideas on the new rhetoric. My reflections on justice, from 1944 to the present day, have given rise to various studies. The first of these was published in English as The Idea of Justice and the Problem of Argument (Routledge & Kegan Paul, London, 1963). The others, of which several are out of print or have never previously been published, are reunited in the present volume. As justice is, for me, the prime example of a "confused notion", of a notion which, like many philosophical concepts, cannot be reduced to clarity without being distorted, one cannot treat it without recourse to the methods of reasoning analyzed by the new rhetoric. In actuality, these methods have long been put into practice by jurists. Legal reasoning is fertile ground for the study of argumentation: it is to the new rhetoric what mathematics is to formal logic and to the theory of demonstrative proof. It is important, then, that philosophers should not limit their methodological studies to mathematics and the natural sciences. They must not neglect law in the search for practical reason. I hope that these essays lead to a better understanding of how law can enrich philosophical thought. CH. P.

Law and Logic - Making Legal Science a Genuine Science
Now in its Third Edition, *An Introduction to Law and Legal Reasoning* continues to be the ideal go-to for the first year law student. It is a short, practical book that introduces beginning law students and others to contemporary law and legal reasoning. By presenting these topics through various discussions of cases and examples, it provides students with a solid source to reference for years to come. A dependable, practical source, that: Covers analogical and deductive reasoning, as well as the roles of legal conventions, purposes, and policies in legal reasoning Discusses cases of varying difficulty to diversify the learning process Presents law and legal reasoning primarily through discussions of cases and examples that avoid the abstraction characteristic of most competing books Emphasizes the law as used in practice by lawyers and judges Provides an explicit and systematic introduction to law and legal reasoning Offers a source suitable for use as supplementary reading in any first year course, in legal research and writing courses, in paralegal courses, and in other settings

This great new edition has been carefully updated to include: A new chapter, "Hardest Cases," that highlights cases notorious in the press Updates throughout that guarantee the most current legal information

The Philosophy of Legal Reasoning: Logic, probability, and presumptions in legal reasoning

Originally published in 1949, *An Introduction to Legal Reasoning* is widely acknowledged as a classic text. As its opening sentence states, “This is an attempt to describe generally the process of legal reasoning in the field of case law and in the interpretation of statutes and of the Constitution.” In elegant and lucid prose, Edward H. Levi does just that in a concise manner, providing an intellectual foundation for generations of students as well as general readers. For this edition, the book includes a substantial new foreword by leading contemporary legal scholar Frederick Schauer that helpfully places this foundational book into its historical and legal contexts, explaining its continuing value and relevance to understanding the role of analogical reasoning in the law. This volume will continue to be of great value to students of logic, ethics, and political philosophy, as well as to members of
the legal profession and everyone concerned with problems of government and jurisprudence.

Reasoning with Rules

Studies in Legal Logic is a collection of nine interrelated papers about the logic, epistemology and ontology of law. All of the papers were written after the publication of the author’s Reasoning with Rules and supplement the issues addressed therein. Some of the papers are new; others have been revised substantially after the publication of their original versions. The emphasis is on analysis, not on logical technicalities. Studies in Legal Logic contains chapters about the nature of norms, the role of coherence in the law, the nature of defeasibility, the role of dialectics in law and artificial intelligence, the statics and dynamics of the law, and the consistency of rules. Moreover, it contains a new, simplified and yet more powerful version of Reason-based Logic and extensive examples of how it can be used for the analysis of legal reasoning. The examples deal with legal theory construction, case-based reasoning, and judicial proof.

Logic, Probability, and Presumptions in Legal Reasoning

What makes an argument in a law case good or bad? Can legal decisions be justified by purely rational argument or are they ultimately determined by more subjective influences? These questions are central to the study of jurisprudence, and are thoroughly and critically examined in Legal Reasoning and Legal Theory, now with a new and up-to-date foreword. Its clarity of explanation and argument make this classic legal text readily accessible to lawyers, philosophers, and any general reader interested in legal processes, human reasoning, or practical logic.

Law and the New Logics

Methods of Legal Reasoning describes and criticizes four methods used in legal practice,
legal dogmatics and legal theory: logic, analysis, argumentation and hermeneutics. The book takes the unusual approach of discussing in a single study four different, sometimes competing concepts of legal method. Sketched this way, the panorama allows the reader to reflect deeply on questions concerning the methodological conditioning of legal science and the existence of a unique, specific legal method.

Logic in Law

Muslims have always used verses from the Qur'an to support opinions on law, theology, or life in general, but almost no attention has been paid to how the Qur'an presents its own precepts as conclusions proceeding from reasoned arguments. Whether it is a question of God's powers of creation, the rationale for his acts, or how people are to think clearly about their lives and fates, Muslims have so internalized Qur'anic patterns of reasoning that many will assert that the Qur'an appeals first of all to the human powers of intellect. This book provides a new key to both the Qur'an and Islamic intellectual history. Examining Qur'anic argument by form and not content helps readers to discover the significance of passages often ignored by the scholar who compares texts and the believer who focuses upon commandments, as it allows scholars of Qur'anic exegesis, Islamic theology, philosophy, and law to tie their findings in yet another way to the text that Muslims consider the speech of God.

New Developments in Legal Reasoning and Logic

In a book that is a blend of text and readings, Martin P. Golding explores legal reasoning from a variety of angles—including that of judicial psychology. The primary focus, however, is on the ‘logic’ of judicial decision making. How do judges justify their decisions? What sort of arguments do they use? In what ways do they rely on legal precedent? Golding includes a wide variety of cases, as well as a brief bibliographic essay (updated for this Broadview Encore Edition).
Methods of Legal Reasoning

Rule-applying legal arguments are traditionally treated as a kind of syllogism. Such a treatment overlooks the fact that legal principles and rules are not statements which describe the world, but rather means by which humans impose structure on the world. Legal rules create legal consequences, they do not describe them. This has consequences for the logic of rule- and principle-applying arguments, the most important of which may be that such arguments are defeasible. This book offers an extensive analysis of the role of rules and principles in legal reasoning, which focuses on the close relationship between rules, principles, and reasons. Moreover, it describes a logical theory which assigns a central place to the notion of reasons for and against a conclusion, and which is especially suited to deal with rules and principles.

Logical Models of Legal Argumentation

This book tackles the basics of legal reasoning in twelve chapters, including the principles of classic logic, deductive and inductive reasoning, application of the Socratic method to legal reasoning, and formal and material fallacies.

The Use of Logic in Legal Reasoning

This book intends to unite studies in different fields related to the development of the relations between logic, law and legal reasoning. Combining historical and philosophical studies on legal reasoning in Civil and Common Law, and on the often neglected Arabic and Talmudic traditions of jurisprudence, this project unites these areas with recent technical developments in computer science. This combination has resulted in renewed interest in deontic logic and logic of norms that stems from the interaction between artificial intelligence and law and their applications to these areas of logic. The book also aims to motivate and launch a more intense interaction between the historical and philosophical work...
of Arabic, Talmudic and European jurisprudence. The publication discusses new insights in the interaction between logic and law, and more precisely the study of different answers to the question: what role does logic play in legal reasoning? Varying perspectives include that of foundational studies (such as logical principles and frameworks) to applications, and historical perspectives.

Legal Reasoning and Legal Theory

Logic in the Theory and Practice of Lawmaking

This book focuses on the analysis of law from a logical point of view, that is, on a tradition that is distinctively based on the application of logic as an indispensable device to endorse the scientific claims of legal thought. According to this approach, the obstacles that have prevented the development of law as a science can now be overcome with the use of modern mathematical logic as a formal science of thought. This formal science constitutes an essential tool for analyzing and systematizing the language of which law is made. Using mathematical logic makes it possible to clarify not only the structure of law, but also the structure of legal reasoning. This clarification is the basis for the operability of legal reasoning through computational devices, which constitutes the core of the artificial intelligence (AI) of law. The first part of this book aims to compare this model of legal science with the Kelsenian approach as well as with a model based on theories of knowledge representation found in the field of cognitive science. The second part of the present book deals with the problem of legal science's object from a logical approach.

Logical Tools for Modelling Legal Argument
Methods of Legal Reasoning

This volume explores the relation between legal reasoning and logic from both a historical and a systematic perspective. The topics addressed include, among others, conditional legal acts, disjunctions in legal acts, presumptions and conjectures, conflicts of values, Jørgensen’s Dilemma, the Rhetor’s Dilemma, the theory of legal fictions and the categorization of contracts. The unifying problematic of these contributions concerns the conditional structures and, more particularly, the relationship between legal theory and legal reasoning in the context of conditions. The contributions in this work constitute the first results of the ANR-DFG joint research project “JuriLog” (Jurisprudence and Logic), which aims at fostering the cooperation between legal scholars and philosophers. On the one hand, lawyers and legal scholars have an interest in emphasizing the logical character of legal reasoning. In this respect, the present enquiry examines the question of how logic, especially newer forms of dialogical logic, can be made fruitful as a significant area of philosophy for jurisprudence and legal practice. On the other hand, logicians find in legal reasoning a striving towards clear definitions and inference-procedures that is relevant to their discipline. In order to fully understand such reciprocal relationships, it is necessary to bridge the gap between law, logic and philosophy in contemporary academic research. The essays collected in this volume all work towards this common goal. The book is divided in three sections. In the first part, the strong relation between Roman Law and logic is explored with respect to the analysis of disjunctive statements in legal acts. The second part focuses on Leibniz’s legal theory. The third part, finally, is dedicated to current interactions between law and logic.

Logic and Legal Reasoning

Does the law contain implicit exceptions to its own rules? If so, what consequence does that have for understanding the relationship between law and morality? This collection gathers leading legal philosophers to analyse the logical structure of legal norms, advancing the
understanding of the general philosophy of law.

Legal Reasoning

Legal Reasoning: Semantic and Logical Analysis brings together for the sophisticated and serious reader the analytic tools of several disciplines needed for a systematic and exhaustive treatment of legal reasoning. Specifically, these are the analytic tools for conceptual analysis, linguistic and logical structures. For example, the reader of Legal Reasoning will be able to learn which modern tools for the analysis of concepts like insanity, justice, property, crime, etc., are available and how far they can accomplish their task. Or, what computerization and mathematical modeling are all about and what they conceivably can do for the legal process. And, in general, how reliable legal, that is, intuitive reasoning is in practice and what formal logic can do for it.

The Philosophy of Legal Reasoning: Moral theory and legal reasoning

This book is unique in presenting an interdisciplinary conversation between jurists and logicians. It brings together scholars from both law and philosophy, and looks at the application of ‘the new logics’ to law and legal ordering, in a number of legal systems. The first Part explores the ways in which the new logics shed light on the functioning of legal orders, including the structure of legal argumentation and the rules of evidence. The second addresses how non-classical logics can help us to understand the interactions between multiple legal orders, in a range of contexts including domestic and international law. The final Part examines particular issues in the applicability of non-classical logics to legal reasoning. This book will be of interest to jurisprudence and logic scholars and students who want to deepen their understanding of relationships between law and legal reasoning, and learn about recent developments in formal logic.

Reasoning with Rules
This book is a revised and extended version of my PhD Thesis 'Logical Tools for Modelling Legal Argument', which I defended on 14 January 1993 at the Free University Amsterdam. The first five chapters of the thesis have remained almost completely unchanged but the other chapters have undergone considerable revision and expansion. Most importantly, I have replaced the formal argument-based system of the old Chapters 6, 7 and 8 with a revised and extended system, which I have developed during the last three years in collaboration with Giovanni Sartor. Apart from some technical improvements, the main additions to the old system are the enrichment of its language with a nonprovability operator, and the ability to formalise reasoning about preference criteria. Moreover, the new system has a very intuitive dialectical form, as opposed to the rather unintuitive fixed-point appearance of the old system. Another important revision is the split of the old Chapter 9 into two new chapters. The old Section 9.1 on related research has been updated and expanded into a whole chapter, while the rest of the old chapter is now in revised form in Chapter 10. This chapter also contains two new contributions, a detailed discussion of Gordon's Pleadings Game, and a general description of a multi-layered overall view on the structure of argumentation, comprising a logical, dialectical, procedural and strategic layer. Finally, in the revised conclusion I have paid more attention to the relevance of my investigations for legal philosophy and argumentation theory.

Past and Present Interactions in Legal Reasoning and Logic

Rhetoric and The Rule of Law

This book has two related aims: to investigate the frequently voiced claim that legal argument is nonformal in nature and, within the limits of such an investigation, to ascertain the most general proper ties of law as a rational system. Examination of a number of views of legal argument, selected from recent discussions in Germany, Belgium, and the English-speaking countries, will lead to the following main conclusions. The nonformalistic
conceptions of the logic of legal argument are ambiguous and unclear. Moreover, insofar as these conceptions are capable of clarification in the light of recent analytical methodology, they can be seen to be either mistaken or else compatible with the formalistic position. Because law is socially directive and coordinative, it is dependent upon theoretical psycho sociology and calls, in principle, for a deontic and inductive logic. The primary function of legal argument is to provide continuing reinterpretation and confirmation of legal rules, conceived as theoretical prescriptions. On the basis of this conception, the old jurisprudential conflict between formalism and rule-scepticism appears substantially resolved.

Aristotle, the founder of the theory of argument, conceived it as "the science of establishing conclusions" (βαςίλευς τοις καταβολές), designed to guide people in rational argumentation. In time, however, logic forsook its practical function and developed as a highly abstract and disinterested study, today called "formal logic"; and the theory of practical argument was either neglected or relegated to an appendix to rhetoric.

Legal Argumentation and Evidence

Is legal reasoning rationally persuasive, working within a discernible structure and using recognisable kinds of arguments? Does it belong to rhetoric in this sense, or to the domain of the merely 'rhetorical' in an adversative sense? Is there any reasonable certainty about legal outcomes in dispute-situations? If not, what becomes of the Rule of Law? Neil MacCormick's book tackles these questions in establishing an overall theory of legal reasoning which shows the essential part 'legal syllogism' plays in reasoning aimed at the application of law, while acknowledging that simple deductive reasoning, though always necessary, is very rarely sufficient to justify a decision. There are always problems of relevancy, classification or interpretation in relation to both facts and law. In justifying conclusions about such problems, reasoning has to be universalistic and yet fully sensitive to the particulars of specific cases. How is this possible? Is legal justification at this level consequentialist in character or principled and right-based? Both normative coherence and narrative coherence have a part to play in justification, and in accounting for the
validity of arguments by analogy. Looking at such long-discussed subjects as precedent and analogy and the interpretative character of the reasoning involved, Neil MacCormick expands upon his celebrated Legal Reasoning and Legal Theory (OUP 1978 and 1994) and restates his 'institutional theory of law'.

Studies in Legal Logic

Learning Legal Reasoning

An Introduction to Law and Legal Reasoning

A leading expert in informal logic, Douglas Walton turns his attention in this new book to how reasoning operates in trials and other legal contexts, with special emphasis on the law of evidence. The new model he develops, drawing on methods of argumentation theory that are gaining wide acceptance in computing fields like artificial intelligence, can be used to identify, analyze, and evaluate specific types of legal argument. In contrast with approaches that rely on deductive and inductive logic and rule out many common types of argument as fallacious, Walton's aim is to provide a more expansive view of what can be considered "reasonable" in legal argument when it is construed as a dynamic, rule-governed, and goal-directed conversation. This dialogical model gives new meaning to the key notions of relevance and probative weight, with the latter analyzed in terms of pragmatic criteria for what constitutes plausible evidence rather than truth.

Logic and Legal Reasoning
Law and Logic

Legal Reasoning

This solidly written book explains the elements of contemporary symbolic logic, and examines the ways in which it illuminates the structure of legal reasoning and clarifies various legal problems. Offering a clear and succinct presentation of standard propositional and predicate logic, it presents the elements of standard logic and applies those techniques to legal materials. It covers the use of standard logic in legal argument, including the denial or distinguishing of premises and the rules of pleading, and makes extensive use of legal materials, cases and statutes, in both examples and exercises. Readers are also given strategies for handling major legal problems in standard logic, including ways for treating conditions contrary to fact, necessary and sufficient conditions, result within the risk, and intent. For logicians and philosophers of law.

The Use of Logic in Legal Reasoning

This handbook addresses legal reasoning and argumentation from a logical, philosophical and legal perspective. The main forms of legal reasoning and argumentation are covered in an exhaustive and critical fashion, and are analysed in connection with more general types (and problems) of reasoning. Accordingly, the subject matter of the handbook divides in three parts. The first one introduces and discusses the basic concepts of practical reasoning. The second one discusses the general structures and procedures of reasoning and argumentation that are relevant to legal discourse. The third one looks at their instantiations and developments of these aspects of argumentation as they are put to work in the law, in different areas and applications of legal reasoning.
Read Free Logic And Legal Reasoning A Guide For Law Student

An Introduction to Legal Reasoning

Analogy as Logic in Legal Reasoning

Legal Reasoning and Briefing

The study presented in this book was entered upon by me from a legal point of view. 'Legal logic' has been known for a long time, concerning itself with the methodology of legal and in particular judicial reasoning. In modern days, however, this 'legal logic' is sometimes also connected with modern formal logic, as it has been developed in the works of G. Boole, A. de Morgan, G. Frege, C.S. Peirce, E. Schroder, G. Peano, A.N. Whitehead, B. Russell and others. For me this gave rise to the as yet not very specific question about the meaning of modern symbolic logic for law. Already in an early stage it appeared that, although traditional legal logic and modern symbolic logic both concern logic, this may not create the misapprehension that a similar matter is at issue. Both concern themselves (among other things) with reasonings and reasoning. Traditional legal logic is, however, as it was said by the German legal theoretician K. Engisch: "a material logic that wants us to reflect on what we have to do if we -within the limits of actual possibility- wish to reach true, or at least correct judgements" (Engisch, 1964, p.5). Modern symbolic logic on the other hand is not concerned with the truth or correctness of the result of an argument, but with its validity, i.e. the question when or under which conditions the truth (correctness) of the conclusion is guaranteed by the truth (correctness) of the premisses.

Justice, Law, and Argument

This book presents the current state of the art regarding the application of logical tools to
the problems of theory and practice of lawmaking. It shows how contemporary logic may be useful in the analysis of legislation, legislative drafting and legal reasoning concerning different contexts of law making. Elaborations of the process of law making have variously emphasised its political, social or economic aspects. Yet despite strong interest in logical analyses of law, questions remains about the role of logical tools in law making. This volume attempts to bridge that gap, or at least to narrow it, drawing together some important research problems—and some possible solutions—as seen through the work of leading contemporary academics. The volume encompasses 20 chapters written by authors from 16 countries and it presents diversified views on the understanding of logic (from strict mathematical approaches to the informal, argumentative ones) and differentiated choices concerning the aspects of law making taken into account. The book presents a broad set of perspectives, insights and results into the emerging field of research devoted to the logical analysis of the area of creation of law. How does logic inform lawmaking? Are legal systems consistent and complete? How can legal rules be represented by means of formal calculi and visualization techniques? Does the structure of statutes or of legal systems resemble the structure of deductive systems? What are the logical relations between the basic concepts of jurisprudence that constitute the system of law? How are theories of legal interpretation relevant to the process of legislation? How might the statutory text be analysed by means of contemporary computer programs? These and other questions, ranging from the theoretical to the immediately practical, are addressed in this definitive collection.

Reasoning on Legal Reasoning

Methods of Legal Reasoning describes and criticizes four methods used in legal practice, legal dogmatics and legal theory: logic, analysis, argumentation and hermeneutics. The book takes the unusual approach of discussing in a single study four different, sometimes competing concepts of legal method. Sketched this way, the panorama allows the reader to reflect deeply on questions concerning the methodological conditioning of legal science and the existence of a unique, specific legal method.
Premises and Conclusions

Informatics and the Foundations of Legal Reasoning represents a close collaboration between a wide range of disciplines and countries. Fourteen papers, together with a long analytical introduction by the editors, were selected from the contributions of legal theorists, computer scientists, philosophers and logicians who were members of an International Working Group supported by the European Commission. The Group was mandated to work towards determining how far the law is amenable to formal modeling, and in what ways computers might assist legal thinking and practice. The book is the result of discussions held by the Group over two and a half years. It will help students and researchers from different backgrounds to focus on a common set of topics of increasing general interest. It embodies the results of work in progress and suggests many issues for further discussion. A stimulating text for undergraduate and graduate courses in law, philosophy and computer science departments, as well as for those interested in the place of computers in legal practice, especially at the international level.

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