

The Uncertainty of Law and the Function of Logical Method in the Reasoning of Judicial Decision

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Abstract: The uncertainty of law originates from the connotation and extension of legal concept, which leads to the uncertainty of law, the blurring of the bounds of legal language and the non-uniqueness of the result of legal reasoning.

1. Introduction

Justice is the main theme of legal pursuit. If the law wants to achieve the goal of justice, it must rely on legal rationality. Without reason, there is no justice. The rule of law requires that the law is definite, but there is uncertainty in the actual law, which provides a broad space for the application of logic in judicial decisions.

(1) The connotation and extension lead to the uncertainty of law

The law should place people's activities and life under the norms and standards agreed by the society. Legal norms and standards are the expression of a concept. The emergence, existence and expression of concepts must be attached to words. The expression of legal concepts with words as the carrier is abstract and typical. The connotation and extension of the concept are its logical characteristics, the connotation reflects the essential attributes of things, and the extension reflects the object or scope of the reference. The legal concept needs to abstract the essential attribute of the reference object and abandon the non essential, accidental and non general secondary content. If the connotation of a concept is definite and the extension is uncertain, the extension boundary is fuzzy. If the extension is determined but the connotation is not clear, the meaning is not clear, "there are differences, disputes and disputes."^[1]¹⁷It can be seen that legal norms expressed by concepts will lead to differences due to the ambiguity of the connotation or extension of legal concepts, thus bringing uncertainty to the law.

(2) The ambiguity of the boundary of legal language leads to the uncertainty of law

Everyday language is a popular language, without modification or transformation. Law is "a special language field that is differentiated from everyday language or specially fabricated".^[1]¹⁰At present, the level of specialization of the legal profession is higher and higher, and the degree of specialization of legal language is also gradually enhanced. However, in the legislative practice of various countries, there is still the fact that non professional legislators legislate. Due to their lack of legal terminology and expression ability. The established law not only needs to be understood by legal professionals, but also by ordinary people, so there are expressions that can be understood by both sides. It is the lack of self-sufficiency of this legal concept that needs to be expressed in daily language. For those concepts shared by law and daily language, if the legal context is not specially explained and defined, the fuzziness of daily language will be transferred to the legal concept, resulting in the uncertainty of the legal concept.

(3) The non uniqueness of the result of legal reasoning leads to the uncertainty of law

Judges need to rule on the current case according to the law. In the judicial process, the judge needs to judge whether the facts of the case exist or are true, judge the legal rules and determine the reasons for the decision of the case, then combine the facts with the law, evaluate the facts of the case according to the law, and make a decision on the legal consequences that the parties should bear. In the judicial trial, because there is the possibility of incomplete match between law and fact, the case has unique personality characteristics. If we can't find the legal rules that are completely

suitable for the case to support it, or the legal evidence is insufficient, the facts are unclear, and the “true” facts are identified differently, the results of legal reasoning may produce various results.

2. The Role of Logical Method in Judicial Decision Reasoning

The uncertainty of law provides the possibility and necessity for the application of logical method in judicial judgment reasoning. “We can define the rational standard for judging a legislative or judicial decision as: whether the legal decision is based on good legal argumentation.” [2]

(1) The law is derivable

In judicial trial, legal rules will not actively connect specific case facts with legal consequences, so judges need to classify the specific facts of cases through careful legal thinking, accumulate materials for legal reasoning, and make effective judgments. “Law is the product of reason, and logic is the foundation of reason.” [1][2] Therefore, when there are legal loopholes or legal gaps, the problem faced by judges is not whether there are defects in the law and how to avoid these defects, but to strive to find the legal basis for ruling on the case. If a judge's judgment wants to be persuasive to others, he must make his argumentation conclusion have reasonable argumentation reasons. It is precisely because of these characteristics of law that it can be deduced. [3] Take the famous Feng Buluo case as an example, the causal inference elements of the first and second trials, in which Feng Buluo was convicted in the first trial and acquitted in the second trial, and there were differences in evidence and argumentation between the first and second trials, so jurors needed to form different judgments in the two trials by integrating different information. With the help of the logical basis of Bayesian probabilistic reasoning, some scholars have constructed the evidence elements in the case of “murder of Vonborough Century” through Bayesian network, simulated the reasoning of the first-instance judgment, and preliminarily judged the advantages of interpretation coherence through Bayesian network diagram and network composition of interpretation coherence, which vividly showed the derivable characteristics of the law.

(2) The rationality of law needs logical defense

To pursue justice in law, we must make the law rational. The judicial result is usually derived from the acceptable premise. The judge's decision should follow the logical requirements and constraints. The application of logic in law highlights the formal requirements of law for fairness and justice, and ensures the certainty and predictability of judicial decisions through formal justice. Logic-based method promotes the inherent consistency and inevitability of the judge's decision, which makes the judge endow the judicial decision with certainty and predictability. Restrict judicial power with logical rationality, highlight judicial rationality and justice of judgment, win authority for justice and rule of law, and win dignity for law. If the judge's ruling loses the consistency and inevitability of logical argument, it will inevitably lead to the unreliability of its ruling result. [4] Therefore, the judge's judicial judgment reasoning must realize the mutual coordination and integration among views, inferences, principles and reasoning reasons. Only the judgment reasoning that can stand the rational inquiry can really convince the public and obtain public recognition. In fact, the discussion on the application of probability theory of inductive logic in judicial adjudication has always been the focus of attention and discussion by British and American Evidence jurists. While affirming the role of probability theory in judicial adjudication, British and American scholars also began to reflect on this purely rational analysis method. In recent years, with the establishment of scientific proof system becoming the focus of evidence law research in China, the application of probability theory as a scientific method in judicial adjudication has begun to be valued by Chinese scholars.

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