

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? The deducibility and inherent rationality of law determine that the application of logical method can effectively realize the certainty and rationality of judicial adjudication.

1. Uncertainty in law

Justice is the main theme of the pursuit of law. 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 the real law has uncertainty, which provides a broad space for the application of logic in judicial adjudication.

1.1. Connotation and extension lead to uncertainty of law

Social behavior is carried out by individuals who act independently in the society, while individual activities are under the guidance of consciousness. Therefore, human social behavior has both individual characteristics and purpose. In any social and historical conditions, people's activities will be caused by their complex and diverse personality characteristics and different purposes of social activities or behavior is very special and accidental. However, contingency and particularity play their roles under the control of the general, general, essential and necessary relation of the hidden interior, that is, the 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 production, existence and expression of concepts must depend on words. The expression of legal concepts based on words is Abstract. and typical. The connotation and extension of a concept are its logical characteristics. The connotation reflects the essential attribute of a thing, while the extension reflects the object or scope of a predicate. The concept of law needs to Abstract. Out the essential attributes of the alleged object, discarding non-essential, accidental, non-general secondary content. If a concept connotation is determined and the extension is uncertain, the extension boundary is ambiguous; if the extension is determined and the connotation is unclear, the meaning is unclear, "disagreement, dispute, and dispute."^{[1]17} It can be seen that the legal norms expressed by the concept will lead to the divergence caused by the connotation or extension of the legal concept, thus bringing uncertainty to the law.

1.2. The ambiguity of legal language boundaries leads to legal uncertainty

The everyday language is the language of the masses, without modification or modification. The legal language is "a specialized language field that is differentiated from everyday language or specially formulated."^{[1]10} The level of specialization of the legal profession is getting higher and higher, and the degree of specialization of legal language is gradually increasing. However, in the legislative practice of various countries, there are still the fact that non-professional legislators carry out legislation, and non-professional legislators lack their ability in legal terminology and expression. The laws that are established need to be understood by legal professionals and understood by ordinary people, so there are expressions that both sides can understand. It is the

inadequacy of this legal concept that needs to be expressed in everyday language. Those concepts shared by law and daily language, if not specially interpreted and defined in legal context, will lead to the fuzziness of daily language transferred to the legal concept, leading to the uncertainty of legal concept.

1.3. The non-uniqueness of legal reasoning results in legal uncertainty

In judicial trials, due to the possibility of incomplete matching between law and fact, the case has unique personality characteristics. If the legal rules that are completely suitable for the case cannot be found for support, or there is insufficient legal evidence and unclear facts, the result of legal reasoning has the possibility of producing a variety of results. There are three different opinions about litigation proof in academic circles: subjective truth, relative truth and legal truth. Subjective truth is the result of the judge's or the fact ascertainment's subjective cognition of the fact and the reflection of the fact in the judge's mind. It is the judge's psychological evidence, which is transferred by the judge's inner conviction. The relative truth is because of the restriction of the subject, object, time, space and resource of the proof or the restriction of the procedure and rules, the result of the proof can only be approximate to the fact, and cannot reach the complete consistency, that is, the probable truth. The truth of the law is what people believe to be the truth, what the law prescribes and recognizes.

The judge needs to decide 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, and judge the legal rules and determine the reasons of the case. Then combine the facts with the law, evaluate the facts of the case according to the law, and make a ruling on the legal consequences that the parties should bear. In judicial trials, the case has a unique personality because of the possibility of incomplete matching between law and fact. If the legal rules that are completely suitable for the case cannot be found to support, or the legal evidence is insufficient and the facts are unclear, the difference in the facts of "real" can make the result of legal reasoning produce multiple results.

2. The role of logical methods in judicial judgment reasoning

The uncertainty of law provides the possibility and necessity of the application of logical methods in judicial judgment reasoning. "We can define the rational criteria for judging a legislative or judicial decision as: whether the law determines whether it is based on a good legal argument."^[2]

2.1. Law is deductible

In judicial trials, legal rules do not actively link specific case facts with legal consequences. Therefore, judges need to classify the specific facts of the case 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 facing the judges is not whether there are defects in the law and how to avoid these defects, but to try to find the legal basis for ruling on the case. If a judge's judgment is to be persuasive to others, he must make the conclusion of his argumentation reasonable. It is because of these characteristics that the law can be deduced.

2.2. The rationality of law needs logical defense

In order to pursue justice, law must be rational. "Legal trials can provide a broad and detailed analysis using probability theory."^[3] The result of a judicial decision is usually based on an acceptable premise. The judge's decision should follow the logical requirements and constraints. That is, the judge's judgment and its inference and argumentation must be logically valid, which can withstand logical and rational criticism, and there is no logical doubt. It must be consistent, mutually compatible, overall coordination, internal integration; On the other hand, the judge's inference is valid or reasonable, and the conclusion of the ruling is logically or necessarily derived from the premise or reason cited. The application of logic in law shows the requirement of fairness

and justice in the form of law, and ensures the certainty and predictability of judicial decisions through formal justice. According to the method of logic, the internal consistency and inevitability of the judge's ruling are promoted, and the judge endows the judicial ruling with certainty and predictability. Judging judicial power with logical rationality, highlighting judicial rationality and referee justice, winning authority for justice and the rule of law, and earning dignity for the law. If the judge's ruling loses the consistency and inevitability of the logical argument, it will inevitably lead to the untrustworthiness of the ruling. Therefore, it is necessary for the judge's judicial judgment reasoning to realize the mutual coordination and integration between the viewpoints, inferences, principles and inference reasons. Only the judgment and reasoning that can stand the rational questioning can truly convince the public and gain public recognition.

3. Conclusion

The uncertainty caused by the connotation and extension of legal concept, the blurring of legal language and the non-uniqueness of legal reasoning results will all lead to legal uncertainty. The inherent rationality and deductibility of law determines that the certainty and rationality of judicial adjudication can be effectively realized by proper use of logical method.

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