

Conditionals and Legal Reasoning. Elements of a Logic of Law¹

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Abstract: The main aim of this paper is to study the notion of conditional right by means of a dialogical approach to constructive type theory (CTT). We will develop this idea in a frame-work where the distinction between local-reason and strategic-reason leads to the further distinction between two basic kinds of pieces of evidence, factual and logical.

The present paper is based on Rahman (2015). However, though the underlying CTT-analysis is the same, the dialogical reconstruction makes use of a new way of linking dialogical logic and CTT.

Key-words: Leibniz, argumentation, legal reasoning, conditional-right, dialogues, logic, epistemic logic.

Résumé: L'objectif principal de cet article est d'étudier la notion de droit conditionnel au moyen d'une approche dialogique de la théorie des types constructifs (TCT). Nous développerons cette idée dans un cadre où la distinction entre "raison locale" et "raison stratégique" conduit à une distinction plus poussée entre deux types élémentaires de preuves: factuelles et logiques.

La présente étude est basée sur Rahman (2015). Cependant, bien que l'analyse TCT sous-jacente soit la même, la reconstruction dialogique utilise une nouvelle manière de relier la logique dialogique et la TCT.

Mots-clés: Leibniz, argumentation, raisonnement juridique, droit conditionnel, dialogues, logique, logique épistémique.

Introduction:

Sébastien Magnier (2013) provides a remarkable analysis of the notion of conditional right² that he generalizes for the logical study of legal norms. The main idea of Magnier, motivated by the exhaustive precedent textual and systematic work of Matthias Armgardt (2001, 2008, 2010)³ and the subsequent studies carried out by Alexandre Thiercelin (2001, 2008, 2010)⁴, involves Leibniz' notion of *certification*, which has a central role in the famous

¹ The present paper is based on Rahman (2015). However, though the underlying CTT-analysis is the same, the dialogical reconstruction makes use of a new way of linking dialogical logic and CTT.

² The terminology used in the present paper follows the one of Leibniz rather than the one in use in nowadays Law-contexts.

³ The work of Matthias Armgardt launched and influenced a host of new researches on the bearings of Leibniz's approach to nowadays studies in legal rationality.

⁴ In fact, Thiercelin researches have been triggered by the work of Armgardt.

Reasoning And The Law The Elements

David Jayne Hill



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Reasoning and the Law Elias E. Savellos,Richard F. Galvin,2001 This text focuses on providing undergraduates the information they need to develop a command of logical analytical techniques From beginning to end the text applies the tools of logic to actual cases all examples and applications are from the legal context Compact but rich in content the text provides tips and warnings a variety of aids and appendices covering an overview of the legal environmental and a guide to writing argumentative papers The Elements of Logic Robert Latta,Alexander Macbeath,1929 The Elements of Logic James Hervey Hyslop,1892 The Elements of Logic, Theoretical and Practical James Hervey Hyslop,1892 Coherence: Insights from Philosophy, Jurisprudence and Artificial Intelligence Michał Araszkiewicz,Jaromír Šavelka,2013-04-05 This book is a thorough treatise concerned with coherence and its significance in legal reasoning The individual chapters present the topic from the general philosophical perspective the perspective of legal theory as well as the viewpoint of cognitive sciences and the research on artificial intelligence and law As it has turned out the interchange of knowledge among these disciplines is very fruitful for each of them providing mutual inspiration and increasing understanding of a given topic This book is a unique resource for anyone interested in the concept of coherence and the role it plays in reasoning As this book captures important contemporary issues concerning the ongoing discussion on coherence and law those interested in legal reasoning should find it particularly helpful By presenting such a broad scope of views and methods on approaching the issue of coherence we hope to promote the general interest in the topic as well as the academic research that centers around coherence and law The Elements of Logic Robert Latta,Alexander Macbeath,1930 **A Critique of Proportionality and Balancing** Francisco J. Urbina,2017-01-26 The principle of proportionality which has become the standard test for adjudicating human and constitutional rights disputes in jurisdictions worldwide has had few critics Proportionality is generally taken for granted or enthusiastically promoted or accepted with minor qualifications A Critique of Proportionality and Balancing presents a frontal challenge to this orthodoxy It provides a comprehensive critique of the proportionality principle and particularly of its most characteristic component balancing Divided into three parts the book presents arguments against the proportionality test critiques the view of rights entailed by it and proposes an alternative understanding of fundamental rights and their limits *Records and Briefs of the United States Supreme Court* ,1832

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an understanding of the ideas from which he drew Hamilton concludes that Hobbes became a great philosopher because of his creative virtuosity

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elements in both academic literature and judicial decisions Nasour Coursami is the Director of Applied Research and a Lecturer at the National School of Administration in Chad He studied law at Cardiff and Bristol Universities and holds a Ph D in International Law from the University of Edinburgh *The Chemical News* ,1906 **The Human Intellect** Noah Porter,1869

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