

SEC--SEMESTER-III

LOGICAL REASONING AND APPLICATION

“DETERMINING THE CORRECT RULE OF LAW”—DISCUSS BRIEFLY.

The appeal to a higher court is normally based on the claim that some rule has been applied improperly or that the wrong rule altogether has been applied. The rules in dispute may concern the procedures at the trial and the admission of evidence or they may concern the substance of the matter.

Procedural rules are fundamental in law, because confidence in the entire judicial system requires that whatever the decision, the steps taken to reach it be fair to the contesting parties. They must be given a full opportunity to present their case, normally with the help of legal counsel, and the opportunity to examine witnesses and challenge evidence. Even the question of “standing”—whether a complaining party has such a relation to the matter at issue that he is entitled to bring the matter to court—may be critical to the proper use of the judicial system and intensely controversial. What may appear to some persons to be “legal technicalities” are often important procedural questions that determine whether justice has been done. Long experience has shown that a legal system requires exacting procedural distinctions and elaborate procedural rules. In the criminal law where substantive rules are generally quite well settled, it is most likely to be procedural and evidentiary rules—pertaining to self incrimination, admission of evidence, support of counsel and so on—that are at issue on appeal.

But in the civil law it is most often the substance of the rule applied, rather than procedure—that is the issue before an appellate court. Not every possible factual circumstance could be anticipated, different rules may appear applicable.

In rejecting one interpretation of a rule in favor of another, the technique of refutation by logical analogy is commonly used by judges. A striking example of such reasoning is found in a Supreme Court decision that the prohibition of cruel and unusual punishment in the U.S. Constitution, does not forbid imposing the death penalty for youthful murderers. Historically the Court has determined that a punishment can be said “cruel and offence” when the majority of the states have the “national consensus” that it is an unacceptable form of punishment. In 1989, Justice Antonin Scalia noted that “national consensus” which requires for labelling a punishment “cruel and unusual” in Supreme Court, seems clearly lacking.

Three steps in the process of appellate court is:- First, the court must decide which rule to apply; Second, the court must state that rule with precision; Third, the court must determine what result will flow from the correct application of the stated rule to the facts of the case at hand. An appellate court must identify and formulate and then correctly apply the rules of law.

EXPLAIN, IN BRIEF, THE DEDUCTIVE REASONING IN LAW.

Determining the facts is fundamental in resolving a legal dispute—but after the facts have been established the appropriate rule of law must be applied to them by the court, and then some practical conclusion drawn. The legal rule, carefully formulated, is one premise of a deductive argument; the statement of the facts exhibiting their relation to that rule is a second premise. The

outcome of applying the rule to the facts will lead to the judgment. If a defendant in a civil suit is held liable, an appropriate remedy for the plaintiff must then be awarded., if the accused is found guilty in a criminal trial, an appropriate punishment must then be imposed.The overall structure of the central argument is clear in either case; it is a deductive argument consisting of a rule together with the facts of the case as premises and the judgment of the court as conclusion.

The deductive process often encounters further hurdles,however.At trial , the facts are established and the law applied to them.The facts are not normally the issue on appeal, because it is generally supposed that the original trier of fact,having been physically present to hear the witness and assess their credibility is more likely to make a correct determination of the facts in dispute. Only if those determinations are clearly erroneous,then they will be reversed. Appeals therefore usually concern whether the rules of evidence were properly applied in establishing the facts or whether the correct rules of law were applied to the facts by the trial court. So in deciding on the rule of law that should be applied to a given set of facts---that deductive reasoning has a central role in the legal process.