Logic as an Inherent Principle of International Law and its Consequences for International Adjudication

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Content

- Logic in International Adjudication
- Definition of Logic
- Logic as an inherent Principle of International Law
- (Selected) Legal Consequences of Logic in International Law
- Selected Logical Fallacies in the Case Law of the ICJ
- Conclusion
Logic in International Adjudication

- Judgments characterised by application of legal methodology
- Modes of logical inference applied and handled so naturally
- Enthymematic reasoning
- Potential for errors in law
Definition of Logic

- Three modes of logical inference
  - Deduction
  - Induction
  - Abduction
- Only concerned with inferential correctness not truth of the premises
- Ensures certainty, testability, constrain arbitrariness
Doctrine in international law assumes validity of logic

For us: construction of normative system is metaphysical construction of thought may only rest on logic!

Logic is most fundamental in law: syllogism

Therefore *ubi ius, ibi logicus*!
(Selected) Legal Consequences of Logic in International Law

- Article 56 of the Statute of the International Court of Justice: reasons of decision
- Article 38(1)(d) of the Statute: decisions as subsidiary means for the determination of legal rules
- Duty to state reasons widely recognized
- Principle of Justification (John Dewey)
- Reasoning must be logically correct!
Revision of Judgments?

International Case Law (ECtHR, IACtHR)

Questionable if errors in logic satisfies Art. 61 (discovery of new fact)

Domestic level: errors of logic as grounds for appeal

General Principle of Law
Logical Fallacies

- Quaternio terminorum
  - LaGrand Case
- Logic in Argumentation
  - Corfu-Channel Case
Conclusion

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Thank you very much!

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