



Purbanchal University

Siddhartha Law Campus, Hetauda-2

“The Concept of Legal Personality in Jurisprudence”

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1. Introduction

Logic is the foundation of all rational thinking. In the field of law, logic plays a crucial role in shaping arguments, analyzing evidence, interpreting statutes, and delivering just decisions. The Theory of Logic is not merely academic—it governs the structure of legal arguments and the reasoning pattern behind legal judgments.

In Nepal, logic is a tool used by judges, lawyers, lawmakers, and students to reason through laws, interpret the Constitution, and make decisions that are not only legally correct but also logically valid.

2. Meaning and Definition of Logic

The term “Logic” originates from the Greek word “*Logike*” which means "the science of reasoning".

In simple terms, logic is the systematic method of arriving at a valid conclusion from given premises.

Legal Definition:

Logic in law is the process of applying reason and rules of inference to legal texts, facts, and evidence to reach a judicial or legislative decision.

3. Importance of Logic in Legal Studies

In Nepal, law and logic are interconnected in the following ways:

Area	Importance of Logic
Legal Drafting	To avoid ambiguity in laws and contracts
Judicial Decisions	Ensures rational and fair verdicts
Legal Arguments	Helps lawyers argue persuasively with sound reasoning
Legislation	Ensures consistent and non-contradictory statutes

Example:

When the Supreme Court of Nepal invalidated a political party split law provision in 2021, it used logical analysis of constitutional provisions related to party formation and dissolution (Article 269 of the Constitution of Nepal, 2072).

4. Types of Logic Used in Law

A. Deductive Logic (From General to Specific)

Used when applying laws to individual cases.

Example (Nepal):

- Major Premise: Anyone stealing property is punishable under Muluki Criminal Code, 2074.
- Minor Premise: Ram stole a motorcycle.
- Conclusion: Ram is punishable under the law.

This deductive structure is often used by Judges and Legal Officers.

B. Inductive Logic (From Specific to General)

Used when forming legal rules from multiple case precedents.

Example (Nepal):

- Case 1: Cyberbullying led to mental distress.
- Case 2: Online defamation caused depression.
- Case 3: Hacking private messages breached privacy.
- Conclusion: There's a growing need for strong cyberlaw reforms in Nepal.

C. Analogical Reasoning

Applied when no direct law exists, and reasoning is done using similar cases.

Example (Nepal):

In the absence of strict AI regulation, Nepali courts may use analogies from data protection laws or apply the doctrine of vicarious liability to AI creators/operators.

5. Components of a Legal Logical Argument

1. Premise: The starting legal fact/law.
2. Inference: Logical connection.
3. Conclusion: Legal judgment/result.

Example from Nepal's Courtroom:

- Premise: A person below 18 is a minor (Section 2(a), Children’s Act, 2075).
- Fact: The accused is 16 years old.
- Conclusion: He shall be treated under Juvenile Justice Procedure.

6. Syllogism in Legal Reasoning

A Syllogism is a structured argument containing:

- Major Premise
- Minor Premise
- Conclusion

Example (Adoption Law in Nepal):

- Major Premise: Only a person fulfilling legal criteria can adopt a child.
- Minor Premise: Gita is unmarried, employed, over 30, and mentally sound.
- Conclusion: Gita is legally eligible to adopt under Muluki Civil Code, 2074 (Part 5, Section 170–185).

This kind of structured thinking is mandatory in legal drafting, case pleading, and judgments.

7. Logic in Nepalese Legal Documents and Institutions

Institution	Use of Logic
Supreme Court of Nepal	Logical interpretation of Constitution
Legislature-Parliament	Logical consistency in bills
Legal Drafting Division, Ministry of Law	Eliminate ambiguity using logic
National Judicial Academy	Teaches legal logic in judge training

8. Common Logical Fallacies in Legal Context

1. Ad Hominem: Attacking person instead of argument.
E.g., accusing a lawyer of bias without addressing his legal points.
2. Straw Man: Misrepresenting the opponent's view.
E.g., saying "You oppose the law, so you must support crime."
3. Circular Reasoning: Repeating the conclusion as the premise.
E.g., "This law is correct because it was passed legally."

Avoiding fallacies ensures fair legal debates and judgments.

9. Theory of Logic in Lawmaking (Nepal-Specific Example)

The drafting of the Muluki Civil Code, 2074, and the Muluki Criminal Code, 2074, was done using logical structures:

- Ensuring non-contradiction
- Keeping hierarchy of norms
- Harmonizing rights and duties

Example:

The logic behind Section 168 of the Constitution (on Government formation) avoids political chaos by defining a clear sequence of forming governments—using deductive structure.

10. Conclusion

The Theory of Logic is not only academic—it is practical, functional, and vital in legal decision-making. In the context of Nepal, legal professionals must use logical tools to interpret the Constitution, apply statutory laws, and deliver justice in a manner that is both fair and rational.

From drafting laws to deciding criminal cases, logic helps maintain the rule of law, eliminate bias, and build public trust in Nepal's legal system.

References (as per Nepali Legal System)

1. Constitution of Nepal, 2072 B.S.
2. Muluki Civil Code, 2074 B.S.
3. Muluki Criminal Code, 2074 B.S.
4. Supreme Court Case Law Portal – www.supremecourt.gov.np