Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2021 – ISSN 2582-7820

Editor-in-Chief – Prof. (Dr.) Rhishikesh Dave; Publisher – Ayush Pandey

Validity of informal fallacies – can law have room for bad arguments?

Anushka Rohilla[a]

[a]National Law University, Jodhpur, India

Received 04 December 2021; *Accepted* 27 December 2021; *Published* 30 December 2021

Sometimes, the assertions we use contradict other people's arguments in everyday life, which may or may not make sense, but these types of statements or arguments appear to be perfectly possible in a legal debate. This study will primarily focus on two different sorts of fallacies, particularly informal fallacies that might appear 'not that smart and sensible' but have legal consequences. This will be an examination of six out of many types of informal fallacies, how they are lawful, where they have been used, and what exceptions, if any, exist. The study paper's major goal is to highlight the usage of informal fallacies in legal arguments and to emphasise their importance. The study will also look at instances when these fallacies can't be utilised and when they have to be used just in specific instances. This paper will not only provide a detailed study of many types of fallacies but will also shed light on how advocates and attorneys twist and change commonplace arguments into ones that carry a lot of weight in a courtroom.

Keywords: *legal argumentation, validity, exception, fallacies.*

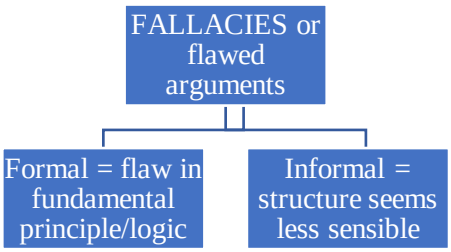
INTRODUCTION

Arguments that are erroneous or flawed are called fallacies. The most commonly argued fallacies are those that are defective but not visible flaws - "arguments that, while inaccurate,

are psychologically convincing" or "that may appear to be correct, but that proved to be incorrect upon scrutiny." [1]All explanations of informal fallacies in legal reasoning, with a few exceptions, simply assume that arguments that are fallacies in other areas of dispute are also errors in legal argumentation. However, in fields of purely rational discourse, such as philosophy, issues that are irrelevant and possibly misleading may be relevant and enlightening in law. Law may allow a larger range of arguments due to its combination of rational debate of legal questions, inquiry into factual matters, and concern with the needs of justice.

TYPES OF FALLACIES

Formal fallacies are mistakes in formal arguments, and this class is usually defined widely enough to include faulty syllogisms. Informal fallacies are the remaining fallacies-the errors that occur in informal debate.



1. For formal fallacy — Let us say there are 2 premises in syllogism –

Premise 1 — All men are mortal.

Premise 2 — Aristotle is a man.

Conclusion — Aristotle is not mortal.

The conclusion arrived at here is wrong as can be seen. So, this is a formal fallacy — an error in argument by *way of error in the form of exclusion of a very important principle; violation of the*

[1] IRVING M. COPI & CARL COHEN, INTRODUCTION TO LOGIC 92 (8th ed. 1990); accord IRVING M. CoPi& KEITH BURGESS-JACKSON, INFORMAL LOGIC 111-12 (2d ed. 1992).

*fundamental principle of a syllogism; a flaw in the normal course of the process that is to be followed***.** Here, there is an error in interpreting the logic of the argument as going by the logic, the conclusion should have been that 'Aristotle is mortal'.

2. For informal fallacy — Let us say that there is an argument going on between A and B and in order to counter a statement by A, B argues by saying, "A always lies". So, this argument by B is flawed because the argument itself is not being countered by attacking its rationality or facts but by attacking A, who is making the argument and this is an error. So, in informal kinds of fallacies, an error is not there in some process or fundamental principle but the error is such that the way an argument is structured just doesn't make sense. Sometimes these kinds of fallacies can make sense and be justified in legal arguments which are argumentative in nature and more often than not, the kind of errors committed here are of nature of the informal sense of fallacies.

TYPES OF INFORMAL FALLACIES

A. Argumentum ad Hominem — The kind of fallacy mentioned in the example above is called Argumentum ad hominem. In this, instead of attacking the argument to counter it, the person making the argument is attacked by being discredited and in the normal day-to-day course, this is considered a bad argument due to it being a fallacy.

Example – a conversation between two persons A and B -

A = I saw you stealing from the house.

B = you are dumb and you don't know anything so, it means you are lying.

This here is the fallacy of ad hominem where B tries to counter A's contention by attacking his character and discrediting it.

- **Validity in legal arguments** – But sometimes, these kinds of arguments are used and taken to be good arguments in legal cases. For example,

While *questioning a witness during a trial, sometimes the lawyer questions the witness's statements by discrediting him and attacking his ability* — and this is considered to be a valid and acceptable argument in court.

Application – The court in the ***United States v Biasucci***[2]- found inappropriate the prosecutor's addressing the defense counsel as "you sleaze," "you hypocritical son--" and describing defense counsel as "so unlearned in the law." *Despite finding that the remarks were improper, the court declined to reverse the conviction because the remarks were "inconsequential, isolated aberrations . . . not. . . made in bad faith*" and did not prejudice the defendant.[3]

Exception –

- *However, The Courts have warned counsel against using ad hominem in order to not get too personal with witnesses and undermined the integrity of the courts*. ***In United States v Young***[4], The Supreme Court emphasised the importance of prosecutors and defence attorneys refraining from making personal assaults on rival counsel. The Court also stated that counselors do not obtain the right to deploy ad hominem attacks just because their opponents have provoked them. Thus, it can be said that in certain cases more or less the recognition of the ad hominem as irrelevant and unacceptable in the legal argument appears to be well established[5].
- Plus, in legal cases also, *discrediting an argument by discrediting the authorities/judges' previous decisions on the same matters is not valid* — a decision given by a court cannot be attacked by attacking the court's authority but the judgment altogether has to be addressed. For example,

There is a case going on in which lawyer A brings up the case of X v. Y as a precedent to make her argument and in order to rebut this, another lawyer B says that this case cannot be taken up as an authority as whatever decision was given, it was given because the judges were biased

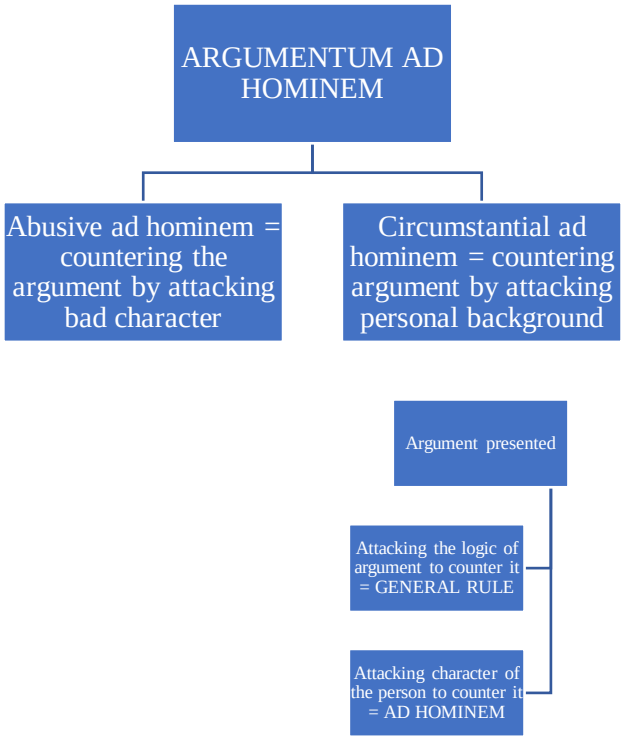
[2] *United States v Biasucci* 786 F.2d 504 [2d Cir.1986]
[3] *Kevin W. Saunders, 'Informal Fallacies in Legal Argumentation'* [1993] 44 S. C. L. Rev. 343, 347
[4] *United States v Young* [1985] 470 U.S. 1
[5] *Kevin W. Saunders, 'Informal Fallacies in Legal Argumentation'* [1993] 44 S. C. L. Rev. 343, 348

against X — not a valid argument. Thus, ad hominem directed toward the judge, whether abusive or circumstantial, is also unacceptable and may even lead to a citation for contempt.

Why this distinction between witnesses and judges? - Judges and attorneys, in theory, engage in logical debate by presenting arguments about legal issues. Judges' and attorneys' personalities and circumstances have no bearing on the truth of their arguments. Witnesses, on the other hand, speak to issues of fact. The contribution of a witness is not a reasonable argument that should stand or fall on its own. A witness provides empirical knowledge that cannot be verified by examining its logical strength since it lacks it. As a result, opposing counsel must undermine a witness's testimony by exposing a character trait that shows a lack of sincerity, or by demonstrating why the witness has a motive to lie or see things in a skewed light.[6]

Therefore: This fallacy makes sense in fact determination where the point of law is already determined but not to undermine the authority of courts/judges. The ***Federal Rules of Evidence***[7]allow the introduction of proof of a witness's bad character and bias in order to undermine his or her credibility. On its face, the submission of evidence about a witness's bad character for impeachment reasons appears to be an abusive ad hominem; impeachment by a showing of prejudice looks towards personal circumstances and situations of the person to be a circumstantial ad hominem[8]. Both are permissible in an attempt by counsel to discredit a witness's testimony.[9]

[6] *Kevin W. Saunders, 'Informal Fallacies in Legal Argumentation'* [1993] 44 S. C. L. Rev. 343, 349
[7] US Federal Rule of Evidence, 1975, r 607, 608, 609
[8] Cassiano Terra Rodrigues, 'Introduction to Philosophy: Logic, Informal Fallacies' (*Rebus Community*)<https://press.rebus.community/intro-to-phil-logic/chapter/chapter-4-informal-fallacies/> accessed 04 December, 2021
[9] *Kevin W. Saunders, 'Informal Fallacies in Legal Argumentation'* [1993] 44 S. C. L. Rev. 343, 348



B. ARGUMENTUM AD VERNICUDIUM

Also known as **the** fallacy of authority where the validity of a statement should not be dependent on the authority it comes from and if it does, this fallacy occurs. **For example —** teaching a subject right or wrong is not to be depended upon the teacher of the subject. So, someone's position doesn't determine the falsity or admissibility of their statements on the subject related to that position.

Validity in legal arguments: But in legal cases**,** the weight of the interpretation of a point of law does depend upon the authority it comes from and varies depending upon the source; that is this fallacy holds good in some cases. The correctness of the authority and the legality of the source that authority uses to arrive at a particular decision, are necessary for the weight of interpretation of argument to depend on the authority. When the legal authority is possessing the authority then only that legal source will be taken into consideration.

Application: Article 141 of the Constitution [10] provides that the '*The law declared by the Supreme Court shall be binding on all courts within the territory of India*' — this means that the precedents have a binding value on the lower courts. If a Supreme Court gives a decision on a certain Case A and later on, a Case B with a similar set of facts as that of Case A comes for deliberation in front of a High Court, the High Court has to take that decision of Supreme Court into consideration to give its decision on Case B, provided that Supreme Court had correct jurisdiction and authority to deliberate upon Case A.

Exception -

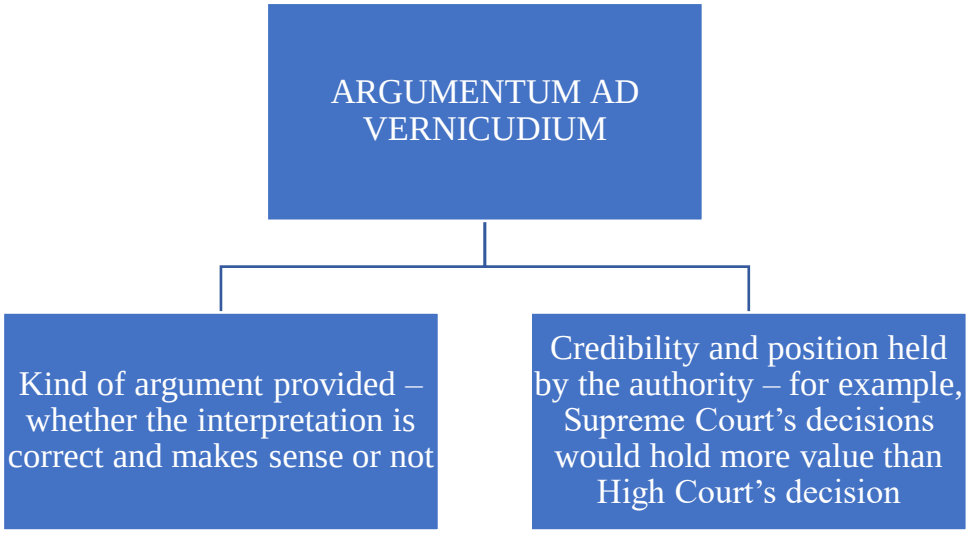
Despite the acceptable role in the legal argument of an appeal to authority, courts have recognized instances in which such an appeal is fallacious. The following statements in the prosecutor's closing rebuttal were judged to be an "*unwarranted appeal to the authority and prestige of the United States Attorney's Office*" by the court in ***United States v Howard***[11] **-**

- "We have not tried to deceive you, ladies and gentlemen. We have tried to bring out the truth, and I can tell you ... when I stood up, took my oath to be an Assistant United States Attorney, it was one of the proudest days of my life, and I am not going to jeopardize it with misconduct or deception. My job is to bring out the truth and see that justice is done in this case, and that is what we have been doing in this case."
- The prosecutor's appeal to the prosecutor's office's authority, and maybe that of the United States, to bolster his position troubled the court. In view of the defence counsel's ad hominem assaults on the prosecutor, the court determined that the words were understandable.[12]

Therefore: This fallacy has a greater role to play in legal argumentation and seems to be more acceptable because respecting the decision of a higher court has been usually the norm in every country and this fallacy seems to conform with that notion. This kind of fallacy is basically an appeal to authority. However, how important is to be given to the authority does

[10] Constitution of India, 1950, art 141
[11] *United States v Howard* 774 F.2d 838 [7th Cir. 1985]
[12] *Kevin W. Saunders, 'Informal Fallacies in Legal Argumentation'* [1993] 44 S. C. L. Rev. 343, 354

depend on what kind of argument is offered and how much that authority is correct and respected.



C. IGNORATIO ELENCHI

A "straw man" argument is a fallacy that involves establishing an irrelevant conclusion. The fallacy consists of making an argument that differs from the opponent's and then attacking the straw man's argument instead of the opponent's arguments. The general rule says that while arguing on a particular topic, counter-arguments should be made relevant to the context of the subject matter of that particular topic only that is being emphasized. But when this fallacy is used, instead of addressing the point, a person produces an artificial straw man and attacks it, which unnecessarily creates a new issue while failing to address the one that is being emphasised.

Example — A makes an argument that 'demonetization is a good policy as it allows for keeping a check on black money. B, while countering this statement, has to take the 'black money aspect into consideration; he cannot take some other context to counter-argue this point as it would not be logical and is the fallacy. So, B says that 'reports say a lot of black money is still in the market' — a relevant argument in the context of the matter emphasized.

Validity: But again, in legal cases, while arguing, it does make sense to argue in a context that is not related to the matter being emphasized upon. According to ***Judge Aldisert***, "At the very best, the technique is known as the fallacy of irrelevance, often referred to as irrelevant

conclusion or ignoration elenchi: the material fallacy of attacking something that has not been asserted. In the vernacular, this is known as erecting a strawman and then striking it down."[13]

Application: *In* ***Adams v New Jersey Steamboat Co***[14]*,* J was a passenger on H's steamboat. During the night, having locked the door and fastened the windows of his room, he left a sum of money in his clothing. The money was stolen by someone who apparently managed to reach through one of the windows. J sued H for recovery of the amount lost. While adjudicating upon the matter court looked into a judgment of a higher court. In that case, the higher court had declared that innkeepers are liable as insurers for the losses of their guests. The court held that a steamboat operator is vested with a similar responsibility to that of an innkeeper.

In both cases, the relationship is such that a high amount of confidence is vested for the purposes of keeping good care of the goods. However, a steamboat operator must be differentiated from a railroad operator in this regard. In the case of a railroad, the rooms are open and therefore the responsibility must be that of the passenger itself for their own goods. Thus, the court went on to hold H liable for the loss suffered by *J and stated that a steamboat operator must ensure for the losses of its passengers. Here it was necessary to make a distinction between the steamboat operator and a railroad operator and the condition of the rooms as to whether they were opened or closed, to fix the liability appropriately without being at fault.*

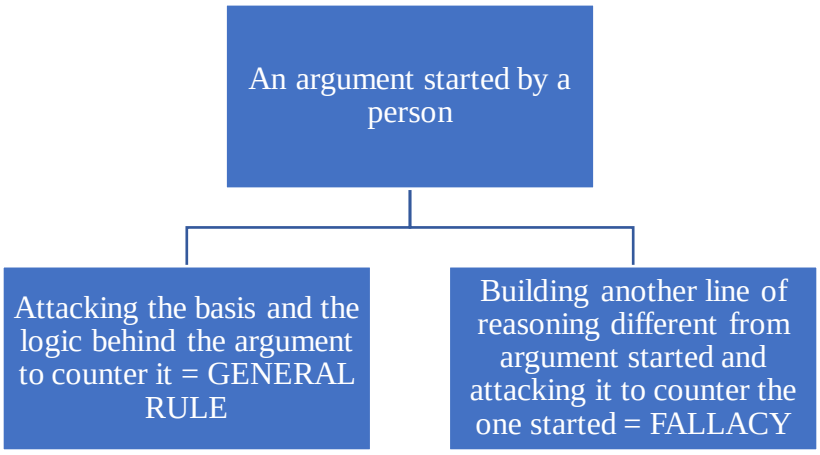
Exception –

Sometimes, there are cases that the defendant or plaintiff tries to justify their stand by attacking a strawman and Court refuses to accept such justification. One such case was ***State v Bruens***[15], the defendant appealed his conviction for sexual assault on a child, saying that the victim's mother's testimony about the victim's statement should not have been allowed to stand. The defendant challenged the statement's admission by questioning the use of the hearsay rule's "*constancy of accusation*" *exception*, as the court put it. ***Judge Borden*** emphasised in his concurring opinion that the constancy of accusation exception was inapplicable because the victim had not

[13]*Kobell v Suburban Lines* 731 F.2d 1076, 1100 [3d Cir. 1984]
[14]*Adams v New Jersey Steamboat Co.* 45 N.E. 369 [N.Y. 1896]
[15]*State v Bruens* 557 A.2d 1290

testified before her mother—indeed, the victim had never testified. *The mother's evidence, however, had been given under the excited utterance exceptio*n, according to the State. As a result, the defendant's attack was on a figment of his imagination.[16][17]

Therefore: This fallacy which works by taking a different line of argumentation and not the one initially being emphasized finds its place in the legal field. However, it is also sometimes dismissed as countering a figment of imagination so as to prevent the person from getting away and avoiding liability or supporting a false claim. For example, when the defendant is privileged to testify in his own defense, it cannot be construed to include the right to commit perjury. [18]



D. POST HOC ERGO PROPTER HOC

The false cause fallacy, also known as non-causa pro causa, occurs when a person "mistakes what is not the source of a particular result for its true cause." It asserts that because one event occurred before another, the first was the cause of the second[19]. *To put it in simple words, just because two facts exist together, it is not necessary that one is due to other and if there is an extraneous/outside fact, then it has to be taken into consideration – just the mere existence and order of their occurrence doesn't mean that one is the cause and other is the effect*.

---

[16] *Ibid*
[17] *Kevin W. Saunders, 'Informal Fallacies in Legal Argumentation'* [1993] 44 S. C. L. Rev. 343, 355-356
[18] *Harris v New York* 401 U.S. 222 [1971] ; *Kevin W. Saunders, 'Informal Fallacies in Legal Argumentation'* [1993] 44 S. C. L. Rev. 343, 356
[19] *Kevin W. Saunders, 'Informal Fallacies in Legal Argumentation'* [1993] 44 S. C. L. Rev. 343, 359

Example – Suppose the rule of a state says that if death is caused by one person by negligent driving of another person, the other person will be sentenced to five years of prison. Now, while driving negligently brushed past the car of B causing a scratch on both of their cars, and within five minutes of that incident, B died. Now, these 2 facts –

1. A driving negligently;

2. B died.

These exist together but through evidence, it was found that B actually was a heart patient and suffered a heart attack while driving and the brushing past of cars had no relation to his death. *Therefore, placing together two facts doesn't establish cause and effect relationship between them. And if we assume this relation, there occurs this fallacy of post hoc ergo propter hoc.*

Validity: Although the post hoc fallacy appears to be a simple one to avoid, it occurs frequently in legal arguments. Some legal decisions understand the fallacy and provide compelling arguments for determining that causality occurs[20]. *In the courtroom, sometimes just the mere existence and order of occurrence of two events is taken to mean that one is the cause and the other is the effect. Although post hoc ergo propter never establishes causation with certainty, courts allow this reasoning in certain cases*

Example – Suppose A was supposed to supply cotton consignment to B but while doing so, a flood occurred in the area and delivery could not be made within the stipulated time period to B. Now, the otherwise normal assumption is that time is the essence but Court says that there is another consideration too that is of natural forces. Because there is no proof of the existence of any other reason for late delivery, it has to be considered that the delay was in fact due to floods occurring and not some other accident which might have been the fault of A.

Application: The court in ***Bradshaw v State Accident Insurance Fund Corp***[21]. acknowledged that the logic presented was posted hoc ergo propter hoc, but upheld the rationale. The question in Bradshaw, a workers' compensation appeal, was whether the claimant had shown

[20] *Ibid*

[21] *Bradshaw v State Accident Insurance Fund Corp.* {1984] 687 P.2d 165 [Or. Ct. App. 1984]

that a work-related foot injury was the source of her incapacitating headaches. The claimant had never had headaches before the injury, but while in the hospital with her infected foot, she began to have terrible migraines. Because specialists were unable to determine the cause of the headaches, the court was left with just the chronological relationship to go on. According to the court,

> "We have always been hesitant to infer causation from the chronological sequence. Post hoc ergo propter hoc is a classic logical fallacy. Yet, as Sherlock Holmes noted, when one has excluded all other explanations, whatever remains, no matter how improbable, must be true...

The headaches must have some cause. The close connection between their onset and claimant's physical condition, combined with the inability to find any specific cause for them, leads us to agree with the claimant's physician's application of Sherlock Holmes' principle. We find it more probable than not that the headaches were caused by the direct effects of claimant's injury and, therefore, that they are compensable."[22] *The court found that the antecedent foot injury was the cause of the migraines since the headaches had to have a reason and all other possible causes had been ruled out.*

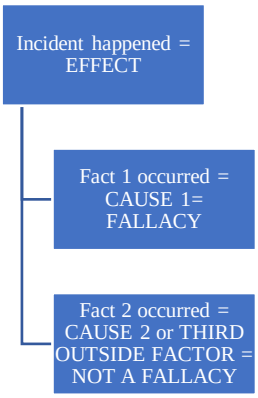
Exception -

Isaksen v Vermont Castings, Inc[23]finds the use of this fallacy. There were two parties A and B indulging in trade and A raised a contention that there were some unlawful activities that B was involved in so, A suffered a lot of loss in his trade because of that. The only proof A had was that before the time period during which B started trading, A was performing business and was earning average profit but started suffering loss once B became operational in his trade. Thus, here A is pointing towards the timing of B becoming operational as the cause and his trade facing losses as the effect. In his opinion for the court, ***Judge Posner*** highlighted that oil prices had declined and the wood stove market had grown saturated over that time period, both of which would have a detrimental impact on wood stove sales. *He called the plaintiff's*

[22] *Kevin W. Saunders, 'Informal Fallacies in Legal Argumentation' [1993]* 44 S. C. L. Rev. 343, 360
[23] *Isaksen v Vermont Castings, Inc* [1987] 825 F.2d 1158 [7th Cir. 1987]

"evidence" a post hoc ergo propter hoc and an unacceptably imprecise method for calculating damages, particularly when additional circumstances were present. [24]

Therefore: Normally, courts are not inclined towards the admissibility of this fallacy into reasoning, but because a court must prove a claim by a preponderance of the evidence in a civil case, it may accept a claimed cause that occurred before the effect in question if all other plausible causes have been ruled out. However, more evidence of causation may be needed. The post hoc inference is best used in circumstances where previous experience shows that such an effect follows a predictable pattern from the indicated cause[25]. The level of proof required determines the quantity of regularity required and higher suspicion is shown towards this fallacy when proof beyond a reasonable doubt is required.



E. ARGUMENTUM AD ANTIQUITAM

When the historical background is used to legitimise reasoning in order to validate or invalidate an argument, this error occurs. It also entails making a claim about when and where that particular debate occurred in the past. **For example**, whenever we greet someone in the morning, it is in our normal habit to say 'Good morning!' and when answering the question that 'Why we do so?' is provided by saying that it has been done all this time and that our forefathers did it, this fallacy or error is seen.

[24] *Isaksen v Vermont Castings, Inc* [1987] 825 F.2d 1158 (7th Cir. 1987); *Kevin W. Saunders, 'Informal Fallacies in Legal Argumentation'* [1993] 44 S. C. L. Rev. 343, 359
[25] *Kevin W. Saunders, 'Informal Fallacies in Legal Argumentation'* [1993] 44 S. C. L. Rev. 343, 360

Validity: ***Judge Aldisert*** defines the argumentum ad Antiquitam, or appeal to the old or the ages, as "the fallacy that holds that determinations and customs of our fathers and forebears must not be changed". *This kind of appeal to the past is prevalent in constitutional debates since the framers' purpose is so important.*

Example – ***Article 14***[26]was construed in the case of ***EP Royappa***[27]to mean that the classification made must not be arbitrary, and the argument given for this reasoning was that the intention of the Constitution's drafters must be kept in mind when interpreting the provisions.

Application: ***Marsh v Chambers***[28]provides a good application of appeal to ages. Marsh involved a constitutional challenge to the Nebraska legislature's habit of beginning each session with a prayer from a chaplain paid with public dollars. The Supreme Court used history to back up its position, stating that the *practise of beginning parliamentary and other deliberative public bodies' meetings with prayer is deeply rooted in the country's history and tradition*. Legislative prayer has coexisted with the ideals of disestablishment and religious freedom from colonial times through the creation of the Republic, and ever since. [29]

The Court resumed its journey through history, noting the Continental Congress's habit of beginning each session with a paid chaplain's prayer and the First Congress's practise of doing the same. The Court also noted that barely three days after permitting the appointment of paid chaplains, Congress achieved a final agreement on the Bill of Rights' phrasing. This coincidental finding suggests that Congress did not believe the practise violated the Establishment Clause.[30]

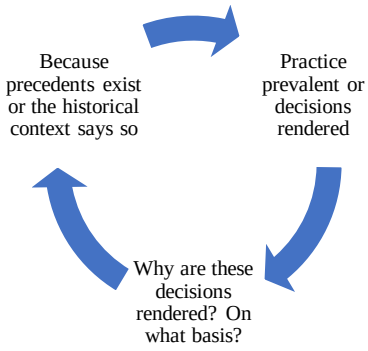
Exception –

However, it is important to remember that the text itself is the most important thing – debates, statements that help to understand intention, and are only referred to when there is a difficulty

[26] Constitution of India, 1950, art 14
[27] *EP Royappa v State of Tamil Nadu* 1974 AIR 555, SCR (2) 348
[28] *Marsh v Chambers* 463 U.S. 783]1983)]
[29]*Ibid.*
[30] *Marsh v Chambers* 463 U.S. 783 [1983]); *Kevin W. Saunders, 'Informal Fallacies in Legal Argumentation'* [1993] 44 S. C. L. Rev. 343, 366

understanding a situation or ambiguity in the facts of the case, and such context makes sense or is a binding precedent. There is usually no need to allude to the historical background if the legislature's intent is apparent. It will not be referred to if there is a previous practise that is in violation of constitutional norms.

Therefore: If the Constitution signifies what the framers intended, then history is the key to determining that intent, so, the argumentum ad Antiquitam may not be a constitutional law fallacy. A legal argument frequently deploys the argumentum ad Antiquitam in a non-fallacious manner, even outside the realm of constitutional law. *The common-law system is based on judges having a consistent stance over a long period of time. In a system founded on stare decisis, an established opinion gains strength only because it has been held in the past, and only a compelling argument will persuade a court to change its mind. This is what is seen particularly in* ***Article 141***[31]*in India where a precedent holds a binding value and in the civil law system it holds a persuasive value (that is the lower court is not bound to follow decisions of higher court but might do because logic says so).*



F. NON-SEQUITUR

The term "non sequitur" *implies "does not follow*." [32]The word non sequitur incorporates all of the informal fallacies in its fullest definition because each fallacy's conclusion does not follow from the premises supplied in support. In normal parlance, a conclusion has arisen from the premise, but here in this fallacy, this doesn't happen.

[31] *Ibid*
[32] *Black's Law Dictionary* 1057 (6th ed. 1990)

Different Types of Non-Sequitur Fallacies:

The term "non sequitur" has been applied to three different sorts of fallacies by various courts. The first two forms, "***denying the antecedent***" and "***affirming the consequent***," include arguments that contain conditional statements of the form "if p, then q"-as a premise, but inappropriately use the conditional and another premise to deduce a conclusion. The ***pure non sequitur***, the third form, states "if p, then q" relationship between two logically unrelated assertions.

1. Denying the Antecedent: A misunderstanding of the nature of a conditional leads to the mistake of denying the antecedent. If ***p (the antecedent)*** is true, then ***q (the consequent)*** must likewise be true, according to the conditional "if ***p***, then ***q***." When ***p*** is untrue, the conditional allows no inference regarding the truth of ***q***. That is, in simple words, it is certain that when ***p*** is true, ***q*** will be true and when ***q*** is false, ***p*** will be false but it is not certain that when ***p*** is false/untrue, ***q*** will also be untrue. *Denying the antecedent is an error that arises from a failure to comprehend the conditional's information limitations. The error is stating that because the antecedent is erroneous, the consequent must be false as well.* In some cases, for example, the conditional, "if one's conduct does constitute a crime, it may be negligence," is employed incorrectly because it relies on the logical fallacy that, because the antecedent of a conditional is false, the consequent must therefore be false.

For example, the conditional statement states that "if it rains, the grass gets wet." Now here, p = if it rains and q = grass gets wet. So, it is certain that if it rains, then the grass will get wet, and also if the grass did not get wet, it would mean that it did not rain but this is not true that if it doesn't rain, the grass will not get wait. The grass may be wet because someone watered it or any other reason besides it. So, the fallacy is in assuming that if it doesn't rain, grass will not get wet.

Application in legal arguments - In ***Harry Levitch Jewellers Inc. v. Jackson***, [33]the error of rejecting the antecedent is demonstrated. The respondents in Jackson applied the right rule

[33] *Harry LevitchJewellers Inc. v Jackson* 573 S.W.2d 746

that if a statement is inadmissible to show a claim against the decedent's estate under the dead man's law, it is inadmissible to prove a claim against the decedent's estate. *The respondents argued that because the Act did not specifically prohibit the statement in question, it was inherently admissible.* The court recognised the fallacy, dubbed it a non sequitur, and pointed out that there were other reasons to dismiss the argument.[34]

2. Affirming the Consequent: The affirming the consequent fallacy, like the denying the antecedent fallacy, is based on a misunderstanding of a conditional. As previously stated, the conditional "if ***p***, then ***q***" argues that if ***p*** is true, then ***q*** is true. It also allows the inference that if ***q*** is false, ***p*** is false, because ***q*** would be true if ***p*** were not false. While it is acceptable to infer the falsity of ***p*** from the falsity of ***q***, *asserting the consequent is an error that occurs when an attempt is made to infer the truth of* ***p*** *from the truth of* ***q***. *It is the inverse of the antecedent denial fallacy.*

Example – considering the same example as above, of 'if it rains, the grass gets wet, it can be said with certainty that if the grass doesn't get wet, it means it hasn't rained. That is establishing the falsity of antecedent ***p*** from the falsity of consequent ***q*** but it cannot be said that if the grass gets wets, it must have rained because there might be some other reason behind grass getting wet like someone watering it. So, when we establish that antecedent is true because consequent is true is wrong and hence, is the fallacy.

Validity and application - The case of ***Wright v Royse*** [35]is a good example of affirming the result. For the proposition that motions are applications, the appellants in Wright relied on a legal dictionary definition of the word "motion." As a result, the appellants contended that "if a submission is a motion, it is an application." *They then claimed that because the submission in question was an application, it was a motion that required writing*. The argument was merely labelled as a non sequitur by the court, but it is a clear example of confirming the consequent that the submission was an application while seeking to infer the antecedent that the submission was a motion.

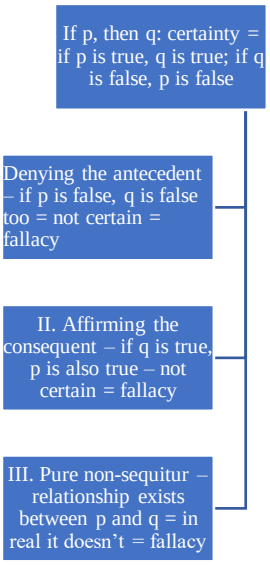
[34] *Harry LevitchJewellers Inc. v Jackson* [1987] 573 S.W.2d 746 ; *Kevin W. Saunders, 'Informal Fallacies in Legal Argumentation'* [1993] 44 S. C. L. Rev. 343, 379
[35] Wright v Royse 193 N.E.2d 340 (111. App. Ct. 1963)

3. The Pure Non-Sequitur" Unlike affirming the consequent or denying the antecedent, the pure non sequitur is not a flawed inference from a conditional. *It is, rather, the assumption of a logical link between two statements when none exists*. A non sequitur isn't a misinterpretation of a logical relationship between propositions; *it's the incorrect assumption that such a relationship exists at all.*

For example – if a person says that there is no fire because it is winter, this is automatically a pure non-sequitur because such a relationship doesn't exist. There can be fire due to multiple reasons, be it manual, technical, etc.

Validity and Application: In ***Papadakis v Zelis***[36], one party argued that judgement should not have been issued in the appealed case since the parties were involved in other lawsuits. The court dismissed the argument as a non-sequitur since the status of the other actions had no bearing on the appealed action's finality. In effect, *the assertion was a conditional of the kind, stating that "if other actions are pending, judgement in the matter under appeal may not be entered." The court stated that the appeal and the pending actions have nothing to do with each other.*[37] Another case to consider is the ***Rhein v City of Frontena***[38]. Property owners in Rhein sought a declaratory ruling that their property's zoning categorization was unreasonable. One of the city's appeals reasons was that the rejection to rezone could not be unreasonable because the city had followed state-mandated procedural standards. "*If the due procedure is followed, then the decision made is reasonable," says the assertion. The claim was quickly identified as a non sequitur by the court*[39].

[36] *Papadakis v Zelis* 282 Cal. Rptr. 18 [Ct. App. 1991]
[37] *Papadakis v Zelis* 282 Cal. Rptr. 18 [Ct. App. 1991]; *Kevin W. Saunders, 'Informal Fallacies in Legal Argumentation'* [1993] 44 S. C. L. Rev. 343, 381
[38] *Rhein v City of Frontena* 809 S.W.2d 107 [Mo. Ct. App. 1991]
[39] *Rhein v City of Frontena* 809 S.W.2d 107 [Mo. Ct. App. 1991]; *Kevin W. Saunders, 'Informal Fallacies in Legal Argumentation'* [1993] 44 S. C. L. Rev. 343, 381



CONCLUSION

Informal fallacies which do not appear to be sensible in everyday life and are generally dismissed can be seen in a variety of contexts, including legal arguments. Because fallacies can lead one astray, it's critical to be wary of them. It's also worth noting that argument structures that appear to be informal fallacies and would be informal fallacies in other domains may not be faulty in a legal debate. Because it incorporates discussion about the logical extension of concepts, questions of empirical reality, and concerns about fairness, the legal argument is complicated. Because of its intricacy, a larger range of arguments can be used in the legal arena than in most others. In most cases, arguments that are informal fallacies may be valid types of legal arguments. We have seen the application of six different types of informal fallacies in legal argumentation however, it is also important to note that courts in instances, have recognized such fallacies and avoided their use as seen from the exceptions discussed in almost every fallacy.