

Philosophy of Law

Philosophy of law, also called jurisprudence, deals with basic questions and theories about legal systems and law itself. Philosophers of law try to gain a firmer understanding of the nature of law, legal systems, legal reasoning, and legal institutions. Generally, scholars have divided *philosophy of law* into 3 areas of study: natural law, analytic jurisprudence, and normative jurisprudence. We explore each of these 3 fields below:

Natural Law

In *philosophy of law*, the idea of natural law consists of the belief that unchangeable laws of nature govern humankind. Generally, the belief in a natural law includes the belief that manmade governments ought to correspond with the natural law as much as possible.

The idea of natural law leads to the principle that says that an unjust law is not a true law. In fact, the idea of an 'unjust law' in and of itself requires that some form of natural law (i.e. justice) exists independent to manmade legal codes. For that reason, most philosophies associate natural law with morality, and thus often with religion. Basically, natural law theory tries to ascertain a moral code to guide the state's lawmaking, based on notions of an objective morality.

Analytic Jurisprudence

Analytic jurisprudence uses a neutral approach to describe the various facets of legal system. Unlike natural law, analytic jurisprudence makes descriptive statements rather than prescriptive statements; it describes law rather than prescribing it. Famously, in *A Treatise of Human Nature*, David Hume contended that people perpetually slip from describing the world to saying we ought to take on a specific route. Analytic jurisprudence recognizes the difference between saying what is as opposed to saying what ought to be; Analytic jurisprudence focuses on the former.

Most importantly, analytic jurisprudence attempts to answer the following questions:

- What is law?
- What are laws?
- How does law relate to social power?
- How does law relate to morality?

Analytic jurisprudence also asks many sociological questions as they relate to law.

Although many people have their own **philosophy of law**, legal positivism currently dominates the field of analytic jurisprudence. Legal positivism asserts that the validity of a law depends on whether or not a recognized authority posited it in the proper manner, regardless of any moral implications.

Philosophy Of Law And Jurisprudence

Fred D. Miller Jr., Carrie-Ann Biondi



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The Philosophy of Law Immanuel Kant, 1787 Kant's Science of right was published in 1796 as the first part of his Metaphysic of morals the sequel and completion of the Foundation for a metaphysic of morals published in 1785 Pref

Philosophy of Law Joel Feinberg, Jules L. Coleman, Christopher Kutz, 2014 This leading anthology contains essays and cases written by some of the most influential figures in legal philosophy representing the major theoretical positions in the field Its primary focus is to relate traditional themes of legal philosophy to the concerns of modern society in a way that invigorates the former and illuminates the latter This classic text is distinguished by its clarity and accessibility balance of topics balance of positions on controversial questions topical relevance imaginative use of cases and stories and the inclusion of only lightly edited or untouched legal classics This revision is distinguished by its inclusion of new material on law and economics international law distributive justice religion and freedom of expression feminist legal theory and critical race theory as well as a greater emphasis on concrete legal problems

Philosophy Of Law Jeffrie G. Murphy, Jules Coleman, 1990 In this revised edition two distinguished philosophers have extended and strengthened the most authoritative text available on the philosophy of law and jurisprudence While retaining their comprehensive coverage of classical and modern theory Murphy and Coleman have added new discussions of the Critical Legal Studies movement and feminist jurisprudence and they have strengthened their treatment of natural law theory criminalization and the law of torts The chapter on law and economics remains the best short introduction to that difficult controversial and influential topic Students will appreciate the careful organization and clear presentation of complicated issues as well as the emphasis on the relevance of both law and legal theory to contemporary society

An Introduction to the Philosophy of Law Roscoe

Pound, 2019-11-21 In *An Introduction to the Philosophy of Law* Roscoe Pound presents a comprehensive examination of legal theory through an analytical lens that intertwines historical context jurisprudential principles and social realities His literary style is characterized by clarity and lucidity employing both philosophical discourse and practical examples to elucidate the complex interplay between law and society Set against the backdrop of early 20th century legal thought Pound's work serves as both a critique of positivism and a call for a more dynamic understanding of law emphasizing the necessity of integrating ethical considerations into legal frameworks Roscoe Pound an influential legal scholar and pragmatist served as a dean at Harvard Law School and was deeply engaged with the evolving landscape of American jurisprudence His background in sociology and philosophy informed his quest to reconcile the rigid structures of law with the fluid nature of human experience This interplay of disciplines propelled Pound to question established norms and advocate for a legal philosophy that prioritizes the social good ultimately shaping his approach in this text *An Introduction to the Philosophy of Law* is essential reading for anyone seeking to understand the foundations of legal thought and the philosophical dilemmas inherent in the practice of law It is particularly recommended for students practitioners and scholars who wish to grasp the

significance of law in shaping societal values and the ethical implications that arise from its application **Philosophy of Law** Jeffrey Brand, 2013-11-21 Organized around specific questions theses and arguments Philosophy of Law Introducing Jurisprudence helps students get to grips with the fascinating yet often complex realm of legal philosophy This comprehensive introduction explores fundamental questions about legal systems legal reasoning and legal concepts covering a wide range of topics in jurisprudence including Liability Punishment Causation Discretion Precedent Constitutional disobedience The rule of law Packed with boxed case studies chapter discussion questions guides to further reading a glossary of key terms and online resources for lecturers and students Jeffrey Brand guides the reader through ideas in an accessible way Philosophy of Law is ideal for use as a core textbook or as a companion to a set of primary sources

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all its complexities including liability law contract law and property law is in itself notable But in terms of understanding the twentieth century development of the American rule of law An Introduction to the Philosophy of Law is indispensable It will make an invaluable addition to the personal libraries of legal theorists philosophers political scientists and historians of American law

Philosophy in the Development of Law Pierre de Tourtoulon,1922

A Treatise of Legal Philosophy and General Jurisprudence Gerald J. Postema,2011-08-05 Volume 11 the sixth of the historical volumes of A Treatise of Legal Philosophy and General Jurisprudence offers a fresh philosophically engaged critical interpretation of the main currents of jurisprudential thought in the English speaking world of the 20th century It tells the tale of two lectures and their legacies Oliver Wendell Holmes Jr s The Path of Law 1897 and H L A Hart s Holmes Lecture Positivism and the Separation of Law and Morals 1958 Holmes s radical challenge to late 19th century legal science gave birth to a rich variety of competing approaches to understanding law and legal reasoning from realism to economic jurisprudence to legal pragmatism from recovery of key elements of common law jurisprudence and rule of law doctrine in the work of Llewellyn Fuller and Hayek to root and branch attacks on the ideology of law by the Critical Legal Studies and Feminist movements Hart simultaneously building upon and transforming the undations of Austinian analytic jurisprudence laid in the early 20th century introduced rigorous philosophical method to English speaking jurisprudence and offered a reinterpretation of legal positivism which set the agenda for analytic legal philosophy to the end of the century and beyond A wide ranging debate over the role of moral principles in legal reasoning sparked by Dworkin s fundamental challenge to Hart s theory generated competing interpretations of and fundamental challenges to core doctrines of Hart s positivism including the nature and role of conventions at the foundations of law and the methodology of philosophical jurisprudence

Philosophy of Law Raymond Wacks,2014-02-27 The concept of law lies at the heart of our social and political life Legal philosophy or jurisprudence explores the notion of law and its role in society illuminating its meaning and its relation to the universal questions of justice rights and morality In this Very Short Introduction Raymond Wacks analyses the nature and purpose of the legal system and the practice by courts lawyers and judges Wacks reveals the intriguing and challenging nature of legal philosophy with clarity and enthusiasm providing an enlightening guide to the central questions of legal theory In this revised edition Wacks makes a number of updates including new material on legal realism changes to the approach to the analysis of law and legal theory and updates to historical and anthropological jurisprudence

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as legal and practical philosophers Edited by the renowned theorist Enrico Pattaro and his team this book is a classical reference work that would be of great interest to legal and practical philosophers as well as to jurists and legal scholar at all levels The work is divided in two parts The theoretical part published in 2005 consisting of five volumes covers the main topics of the contemporary debate the historical part consisting of six volumes Volumes 6 8 published in 2007 Volumes 9 and 10 published in 2009 Volume 11 published in 2011 and Volume 12 forthcoming in 2015 accounts for the development of legal thought from ancient Greek times through the twentieth century The entire set will be completed with an index Volume 6 A History of the Philosophy of Law from the Ancient Greeks to the Scholastics 2nd revised edition edited by Fred D Miller Jr and Carrie Ann Biondi Volume 6 is the first of the Treatise s historical volumes following the five theoretical ones and is dedicated to the philosophers philosophy of law from ancient Greece to the 16th century The volume thus begins with the dawning of legal philosophy in Greek and Roman philosophical thought and then covers the birth and development of European medieval legal philosophy the influence of Judaism and the Islamic philosophers the revival of Roman and Christian canon law and the rise of scholastic philosophy in the late Middle Ages which paved the way for early modern Western legal philosophy This second revised edition comes with an entirely new chapter devoted to the later Scholastics Chapter 14 by Annabel Brett and an epilogue by Carrie Ann Biondi on the legacy of ancient and medieval thought for modern legal philosophy as well as with updated references and indexes **PHILOSOPHY OF LAW** IMMANUEL. KANT,2018

Readings in the Philosophy of Law John Arthur,William H. Shaw,1993 Designed for a first course in philosophy of law jurisprudence or legal theory this revised text contains classical and contemporary readings on a range of key issues in legal theory Topics range from the nature of law and legal reasoning to specific problems such as entrapment search and seizure exclusionary rules plea bargaining pre trial publicity lawyer s ethics and the adversary system Introductions are provided for each topic and often the first essay provides students with an overvie of the problems that follow Lectures on

Jurisprudence John Austin,Sarah Austin,1885 **Jurisprudence** ,1998 The Politics of Jurisprudence Roger B. M.

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