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## *Philosophies of the Branches of Knowledge*

지식의 분야

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Philosophy of law is concerned with the formulation of concepts and theories to aid in understanding the nature of law, the sources of its authority, and its role in society. In English-speaking countries the term "jurisprudence" is often used synonymously and is invariably used in reference to particular subdivisions of the field.

To the extent that it implies some necessary link or coincidence with general philosophy, the phrase "philosophy of law" may be somewhat misleading, for philosophy of law

is mostly untouched by the conflicts of different philosophical schools, and its practitioners may without incongruity draw on diverse philosophical outlooks--on Logical Positivism for some analytical problem of the structure of legal orders and, simultaneously, on Existentialism for a problem of sociological jurisprudence or justice, for example--without commitment in any such instance to an entire philosophical outlook. (see also law)

Nor can one treat philosophy of law as a specialized branch of philosophy such as ethical or political philosophy, epistemology, or logic, for in philosophy of law all these branches may make contributions. Ideas that may illumine jurisprudential problems must indeed be sought not only in philosophy but in all systematic bodies of thought. Only if "philosophy" is interpreted in its least technical and broadest sense does "philosophy of law" cease to be a misnomer.

### 9.1.1 PROBLEMS OF THE PHILOSOPHY OF LAW

#### 9.1.1.1 Various approaches.

For practical reasons, such as to avoid overlappings, it is convenient to organize jurisprudence into three principal branches only: analytical jurisprudence, sociological jurisprudence, and the theory of justice.

##### 9.1.1.1.1 *Analytical jurisprudence.*

The analytical questions in jurisprudence are concerned with articulating the axioms, defining the terms, and prescribing the methods that best enable one to view the legal order (or part of it) as a self-consistent system and that maximize awareness of its logical structure. Perhaps the most rigorous solutions are those which, like that of Hans Kelsen, a contemporary Austrian-American

