

Jurisprudence

From the Latin term juris prudentia, which means "the study, knowledge, or science of law"; in the United States, more broadly associated with the philosophy of law.

Legal philosophy has many branches, with four types being the most common. The most prevalent form of jurisprudence seeks to analyze, explain, classify, and criticize entire bodies of law, ranging from contract to tort to Constitutional Law. Legal encyclopedias, law reviews, and law school textbooks frequently contain this type of jurisprudential scholarship. The second type of jurisprudence compares and contrasts law with other fields of knowledge such as literature, economics, religion, and the social sciences. The purpose of this type of study is to enlighten each field of knowledge by sharing insights that have proven to be important in advancing essential features of the compared discipline.

The third type of jurisprudence raises fundamental questions about the law itself. These questions seek to reveal the historical, moral, and cultural underpinnings of a particular legal concept. *The Common Law* (1881), written by Oliver Wendall Holmes Jr., is a well-known example of this type of jurisprudence. It traces the evolution of civil and criminal responsibility from undeveloped societies where liability for injuries was based on subjective notions of revenge, to modern societies where liability is based on objective notions of reasonableness.

The fourth and fastest-growing body of jurisprudence focuses on even more abstract questions, including, What is law? How does a trial or appellate court judge decide a case? Is a judge similar to a mathematician or a scientist applying autonomous and determinate rules and principles? Or is a judge more like a legislator who simply decides a case in favor of the most politically preferable outcome? Must a judge base a decision only on the written rules and regulations that have been enacted by the government? Or may a judge also be influenced by unwritten principles derived from theology, moral philosophy, and historical practice?

Four schools of jurisprudence have attempted to answer these questions: formalism proposes that law is a science; realism holds that law is just another name for politics; Positivism suggests that law must be confined to the written rules and regulations enacted or recognized by the government; and naturalism maintains that the law must reflect eternal principles of justice and morality that exist independent of governmental recognition.

Source: "Jurisprudence". The Free Legal Dictionary.
<http://legal-dictionary.thefreedictionary.com/jurisprudence>