

# Jurisprudence as a Side-Quest? A Critical Appraisal of John Gardner's Account of the Reasons to Study Jurisprudence

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## Abstract

In a short paper entitled “Why Study Jurisprudence?” John Gardner claims that philosophy of law has a modest and optional role within legal studies. To his mind, the reasons for studying it are that it gives jurists a broader outlook on law and develops excellence in argument. This paper argues that, on closer scrutiny, Gardner’s account of reasons for studying jurisprudence falls short because he considers a narrow concept of general jurisprudence that leaves out many kinds of jurisprudence and crucial jurisprudential issues. By discussing the two types of knowledge jurisprudence can transfer, namely knowledge that and knowledge how, I focus on the ability of various kinds of jurisprudence (general/particular/special, analytical/hermeneutical, conceptual/descriptive/normative/critical, philosophers’ jurisprudence/jurists’ jurisprudence) to develop propositional and performative knowledge in students of law. I conclude that jurisprudence is not best understood as a side quest in legal studies. Instead, by using the same game analogy, it is better understood as crucial but additional content (DLC, so to say) to the study of law that is well positioned to contribute significantly both to the study of law and legal practice.

**Keywords.** Jurisprudence. Kinds of Jurisprudence. Propositional Knowledge. Performative Knowledge. Study of Law.

## 1. Introduction

Debating issues in jurisprudence requires a significant amount of shared background understanding. The challenges that often lead to discussions and debates

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stem from the fact that the very word is used to describe various areas of interest. It sometimes refers to philosophy of law or the most general science of law, known as legal theory. Some take it to be a tradition, a mode of theorising about law, and even an ideology<sup>1</sup>. Other times, it is contrasted with theory of law as a distinctly philosophical enterprise<sup>2</sup>. At times (and places, most commonly in France), following more closely the word's etymological roots, it doesn't even denote the theoretical study of law but the corpus of judicial decisions of a court or a judicial system.

Consequently, when we face claims about jurisprudence as a discipline, we are hardly ever sure what these claims relate to. A recent jurisprudential debate may best exemplify the trouble. In an influential essay, David Enoch argued that general jurisprudence is not interesting. General jurisprudence is mainly exemplified in the debates between legal positivism and legal non-positivism and between exclusive and inclusive legal positivism<sup>3</sup>. Following a similar line of thought, Scott Hershovitz claimed that contemporary jurisprudence is dominated by a single debate that has brought the entire field to an end, lacking relevance in any area of law<sup>4</sup>. According to these authors, jurisprudence has rendered itself inconsequential and futile. Julie Dickson disagrees, but not by arguing that jurisprudence is relevant. Instead, she claims that the criticism might be valid, but only if one holds a narrow understanding of general jurisprudence. The criticisms would subside if the relevant philosophical issues in the jurisprudential debates go beyond «the nature of law and its various relations with morality, and explore law's potential and actual value, function, and place amongst those other social and normative phenomena which shape our lives»<sup>5</sup>. It seems that the relevance of jurisprudence depends on our understanding of jurisprudence and that we are nowhere close to a joint understanding of the enterprise that would make it exciting or worthy of study.

With all the confusion regarding the very term jurisprudence, the relatively frequent discussions about the contribution of jurisprudence to legal studies and the need to spell out the exact reasons for including jurisprudence in the study of law is not surprising. In the paper entitled "Why Study Jurisprudence?"<sup>6</sup>, John Gardner gives an attempt to reflect on the academic study of jurisprudence and by dwelling on the import of jurisprudential teaching on the rest of legal scholarship and legal practice. To expand on Gardner's discussion, the paper will (1) summarise John Gardner's view on the reasons for studying jurisprudence. Then, it will (2) present alternative accounts of jurisprudence, arguing that Gardner's reasons are closely

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<sup>1</sup> Twining 2009: 8.

<sup>2</sup> Robertson 2017.

<sup>3</sup> Enoch 2019.

<sup>4</sup> Hershovitz 2015.

<sup>5</sup> Dickson 2017: 16.

<sup>6</sup> The only place in which the piece was published is, as far as I know, a yearbook of a professional association of barristers and judges called The Inner Temple.

tied to a specific kind of jurisprudence. Finally, it will (3) contend that most types of jurisprudence can equip aspiring lawyers and legal practitioners with propositional and practical knowledge that is far more relevant for the study of law and the legal profession than what is envisaged by Gardner. As indicated in the title, it will use the metaphor of role-playing games to illustrate and discuss these issues<sup>7</sup>.

## 2. Gardner's Account of Jurisprudence as a Side Quest

Gardner begins his short paper "Why Study Jurisprudence?" by defining the jurisprudence he is interested in discussing. He makes three initial points: 1) Firstly, jurisprudence is wisdom about the law imparted to students throughout their legal education. 2) Theory of law, the most general of the legal disciplines (or sciences), also purports to make true propositions about law based on generalisations from existing legal systems. 3) Finally, he claims that jurisprudence is oftentimes equated with philosophy of law. Surprisingly, according to Gardner, none of these points is decisive in his discussion of reasons to study jurisprudence. The reason for this is that, according to him, in many jurisdictions, law students are required to study the «articulation, defence, and criticism of propositions about law and legal life that are supposed to hold generally»<sup>8</sup>. The common name for the discipline that engages students in these topics is "Philosophy of Law". Gardner confines himself to discuss the use that law students might have in studying one specific brand of philosophy of law. The brand is identified in another other paper, "Law and Philosophy", in which he places himself firmly in the analytical jurisprudential cycle, defined by the fact that its members «like to analyse, breaking every big question down into small, sometimes apparently disconnected, sub-questions»<sup>9</sup>.

In confronting universal questions tackled by this specific kind of philosophy of law after some years of legal training, students of law are, Gardner reports, quite

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<sup>7</sup> For the uninitiated, RPGs are role-playing games in which the player assumes the role of a character in a setting. The players' roles are played in a narrative emphasising structured decision-making in various situations. To do this, the player must understand two crucial interconnected game mechanics: a) character development and b) progression by quests. By undertaking and successfully solving quests, the player gains experience points to invest in certain character traits. The upgraded character stats are then used to increase the likelihood of completing other quests. The progression in the story is determined by the success of the so-called main quests. However, it is often necessary to complete side quests to achieve the character traits needed to successfully progress with the main quest. Often, side quests are insubstantial for the narrative, wholly or partially disconnected. Their only purpose is to allow the "levelling up" of the character, which in turn allows or facilitates the completion of the main quests. However, they are a more substantial way of levelling up than eliminating enemies by collecting items repetitively, often called "grinding".

<sup>8</sup> Gardner 2006: 1.

<sup>9</sup> Gardner 2012: 14.

often dumbfounded. Training in legal practicality and conclusiveness makes it so that (1) philosophical writing is frequently treated dogmatically<sup>10</sup>. Students tend to treat philosophers like legal authorities without exploring autonomously the issues that philosophers discuss. Law students adapt quickly to the lawyerly fashion of arguing from authority, to which both lawyers and academic lawyers are oriented. Conversely, Gardner claims philosophers put arguments of authority high on the list of fallacies<sup>11</sup>. In this way, (2) the default understanding of philosophical writing is like an endless debate about opposing camps, with elaborate views on legal issues tied together in an all-or-nothing fashion. (3) They tend to adjudicate between the competing positions based on how realistic they are instead of inquiring into whether the propositions are true. (4) Finally, students approach philosophy of law with a reforming ambition, and the philosophy of law should be able to tell legal practitioners how to do their job better.

These are indeed high expectations that are difficult to fulfil in any academic course. At the same time, these aspirations are to be expected from law students. Namely, unlike philosophers, lawyers are oriented on putting their thinking to use, not just to think<sup>12</sup>. From Gardner's perspective, these students' expectations are mistakes that result from the conflation of legal and philosophical knowledge<sup>13</sup>. However, answering a philosophical or jurisprudential question yields no practical advice. At best, it simply provides students with true or at least plausible insights into the necessary properties of law, rights, obligation, interpretation, etc.

Ronald Dworkin argued that the philosophy of law offers practical advice by claiming that the philosophical study of law is connected with the practical problems lawyers face. According to him, the philosophy of law shares with legal practice the method of constructive interpretation. This specific kind of interpretation boils down to the fact that lawyers and philosophers of law interpret legal materials in their best light to connect those materials in a coherent whole. Gardner argues that Dworkin's view conflates lawyers and philosophers by turning philosophers of law into ambitious lawyers and lawyers into workday philosophers of law. The position became popular among lawyers because it «appeals to their vanity»<sup>14</sup>. An obvious counterpoint to Dworkin's position, Gardner argues, is the practice of inquiry in most other philosophical disciplines. Epistemologists might know more about the nature and justification of knowledge, but they certainly do not know more about stuff than the rest. Ethicists might know more about morality, but there is scarce evidence that they give better moral advice or are even more moral<sup>15</sup>. Likewise, no

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<sup>10</sup> Gardner 2006: 2.

<sup>11</sup> Gardner 2012: 14.

<sup>12</sup> Gardner 2012: 14.

<sup>13</sup> Gardner 2012: 17.

<sup>14</sup> Gardner 2006: 4.

<sup>15</sup> Schwitzgebel, Rust 2009, 2014.

amount of study of aesthetics can reasonably be expected to teach one to create beautiful art. At best, philosophers of law are experts in legal concepts and justification of law, so there is no point in coming to them for legal advice. Likewise, legal practitioners often make lousy philosophers. What is different, according to Gardner, are the attitudes and temperaments – a philosopher’s job is to understand and explain the nature and form of something, while a judge’s job is to resolve the issue:

One could sum this up by saying that philosophers can go only as far as reason will take them, whereas judges can and must make progress beyond the limits of reason by acts of will or decision<sup>16</sup>.

In other words, in “Why Study Jurisprudence?”, Gardner endorses a strict separation between philosophy of law and legal practice based on the diverging aims of philosophical and legal inquiries. The discussion leads him to claim that there are two main contributions of philosophy of law to legal education: (1) The widening of lawyers’ horizons and their development as human beings. Gardner advances the study of jurisprudence because there is a need to study something more than parochial legal doctrine, a mere reminder that «there is more to life than legal practice»<sup>17</sup>; (2) Developing excellence in argument. Philosophers of the analytic kind tend to break arguments into smaller pieces and evaluate those pieces. Moreover, jurisprudence doesn’t deal with specific arguments but with arguments as such. In this sense, argumentation about any subject matter is a transferable skill in analytic philosophy and law<sup>18</sup>.

Overall, it seems that general jurisprudence allows one to go beyond the legal looks of the problem and understand the ramifications of the legal decision. In conclusion, Gardner argues that there is indeed value in the philosophy of law:

A philosophical education encourages us to look beyond this immediate issue. It encourages us to look for timeless problems underlying topical problems. You may say that for a lawyer with clients, this could be a distraction. No doubt it could. But a lawyer who is astute to both perspectives has two levels of argument to think about. Whereas her opponent – lacking any philosophical education – can maybe muster only one<sup>19</sup>.

### 3. Why Study Anything? Levelling Up in Legal Knowledge

The reason for studying anything is to gain knowledge on the thing. In epistemology, it is common to differentiate between three types of knowledge. The first kind

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<sup>16</sup> Gardner 2006: 5.

<sup>17</sup> Gardner 2006: 2.

<sup>18</sup> Gardner 2012: 12.

<sup>19</sup> Gardner 2006: 8.

of knowledge is called *knowledge of* or *knowledge by acquaintance*<sup>20</sup>. This knowledge involves direct awareness or familiarity with something, a direct, first-person relationship or experience with an object, person, or event. For example, knowing Paris because you've been there, knowing your best friend because you've spent time with them, or knowing what it feels like to be happy because you've experienced happiness. Knowledge by acquaintance is considered more fundamental and immediate than propositional knowledge because it doesn't rely on any inference or interpretation. Bertrand Russell, for example, claims that «all our knowledge [...] rests upon acquaintance as its foundation»<sup>21</sup>. It's often described as the kind of knowledge that can't be adequately expressed in words or communicated to others who don't have the same direct experience or acquaintance.

*Propositional knowledge*, also known as “declarative knowledge” or “knowledge that”, involves knowing something is the case. It refers to knowledge of facts or truths, things external to our mind<sup>22</sup>. It can be expressed in propositional sentences, usually in the form “S knows that P”, where “S” refers to the subject who has the knowledge and “P” refers to the proposition that is known. For example, if you know that Paris is the capital of France, this is propositional knowledge. You know a fact or proposition about the world. Propositional knowledge is typically contrasted with other kinds of knowledge, such as procedural knowledge (knowing how to do something, like riding a bike) and acquaintance knowledge (knowing of something or someone, like being familiar with a city or person). In epistemology, the study of propositional knowledge often involves addressing the conditions that must be met for a person to know a proposition. Traditionally, these conditions include a belief in the proposition, the proposition being true, and the person having justification for their belief in it. This is often called the “justified true belief” theory of knowledge, although this theory has been subject to significant debate and criticism.

Finally, Gilbert Ryle argued that there is a third specific kind of knowledge distinct from knowledge of and knowledge that. “Knowledge how” refers to *performative* or skill-based *knowledge*<sup>23</sup>. It is the knowledge of how to perform a task or activity. This type of knowledge is often contrasted with “knowledge that”, or propositional knowledge, which involves knowing something is the case. Knowing how to ride a bike, play a musical instrument, swim, or speak a foreign language are all examples of “knowledge how”. It is typically gained through practice and experience and is often tacit, meaning it's difficult to articulate. Ryle's arguments

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<sup>20</sup> Russell 1998: 25.

<sup>21</sup> Russell 1998: 26.

<sup>22</sup> Russell 1998: 28-29.

<sup>23</sup> Ryle 2009: 14-48. For this paper, following Ryle, I won't differentiate between skill and knowledge-how. There are, however, good reasons to treat knowledge of how as separate from skill, especially if we have in mind that even knowledge of how is at times split into theoretical understanding of how, which would be propositional, and practical knowledge of how that would be closer to skill (Cath 2015)..

were influential in epistemology because they show that knowledge isn't just about accumulating facts and developing skills and abilities and cannot, therefore, be reduced to other kinds of knowledge. However, his instance on the differentiation between knowledge and knowledge how has led him to adopt an anti-intellectualist standpoint that led many to conclude that the differentiation also means the complete disconnect between the two<sup>24</sup>.

However, Ryle's anti-intellectualism regarding performative knowledge is convincing as long as we understand it as a claim that performative knowledge is not exhausted in propositional knowledge. Claiming that the two kinds of knowledge are not connected, in the sense that propositional knowledge can, in fact, lead to the development of performative knowledge, seems a step too far. Be this as it may, we can reframe Gardner's discussion of reasons to study jurisprudence regarding the distinctions between different kinds of knowledge. His position regarding jurisprudence might be summarised as follows: by starting with knowledge from acquaintances, law students expect jurisprudence to provide propositional knowledge about law or performative knowledge that is valuable for the legal profession.

#### 4. The Problems of Gardner's Account: Side Quests vs Grinding

Gardner's descriptions of students' expectations, the knowledge of legal philosophers about practical matters, and the knowledge of judges and legal practitioners generally do a good job mapping experiences with students and practitioners. They do not, however, map them perfectly. His interpretation of a typical student question, which he uses to kick off his discussion, is a glaring example of the mismatch. Namely, students often ask whether a conception is realistic when confronted with jurisprudential writing about law. Gardner considers the question indicative of a tacit equating of realistic and accurate claims. He argues that law students, by default, consider a philosophical argument valid because it's realistic.

In my experience, even if equipped with a practical mindset, students usually do not use the criterion of realism to access the truth of philosophical propositions. Instead, they either use it as a statement of their knowledge by acquaintance with the issue at hand or as a grounding of their intellectual effort in the discipline and practice they are being educated in. (1) In the first sense, the claim is commonly a sign that they recognise the problem that is being discussed by the professor because it is a problem that they either encountered during their legal studies as a result of personal inquiries and dilemmas or, like with many philosophical problems, in virtue of them being humans prone to examine their lives. Moreover, the claim about the "realism" of a jurisprudential position is rarely a categorical statement that judges

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<sup>24</sup> Pavese 2022.

the truth or falsity of the claim. This statement of acquaintance with the problem of claim commonly signals that the student is open to competing explanations or instructions. In other words, and the authors' teaching experience, students use the attribute of realism as a shorthand for "it strikes me as plausible". The crucial difference is that this use of the adjective "realistic" for students of the philosophy of law marks a beginning rather than an end of philosophical inquiry. It signals the understanding of a position or point recounted to them and a willingness to accept counterarguments. (2) The second use relates similarly to Gardner's arguments but is still significantly different from his conclusions. An overly partial, technical claim detached from the main line of studies tends not to map well on our understanding of what an explanation of a thing is or should be. In this sense, when we argue about philosophical positions without considering the lived experience of legal professionals within a legal system, we might encounter a clash between our claims about the discrete issue at hand and the state of the problem in legal practice. This is the result of working within a legal order that is in some ways dysfunctional but can also arise as a consequence of overly technical explanations riddled with state-of-the-art terms that, at least on a first encounter, are more confusing than elucidating. This is especially the case if they were developed in response to a long-standing debate within a discipline (like the debate between inclusive and exclusive legal positivism). The expectation of "realism" calls for a better, clearer, down-to-earth explanation of the issue, which often entails stepping outside the boundaries of general jurisprudence and into social science and philosophy. It also entails giving up, either temporarily or permanently, on the technical terms and/or explaining the entire history of a debate.

In other words, the students' default assessment of a jurisprudential claim as realistic is not detrimental to jurisprudential discussions. It is often the opposite, as it invites us to provide students with substantial propositional and performative knowledge from the domain. At the same time, this constitutes a problem for Gardner's understanding of reasons to study jurisprudence. I have argued that according to Gardner, jurisprudence imparts a specific kind of performative knowledge. This performative knowledge consists in the development of an attitude of openness and a mode of argumentation that should be better than the default modes of argumentation done by jurists. If so, knowledge imparted by jurisprudence might as well be valuable, but it is neither necessary for legal practice nor imparted exclusively by jurisprudence. It would seem that the philosophy of law directs lawyers to other disciplines outside of law and philosophy and that excellence in argumentation is actually excellence in a kind of argumentation quite different from the default legal argumentation.

In other words, not only is jurisprudence a side quest in the study of law, but its study is completely dispensable from the perspective of legal practice. Arguably, instead of embarking on the side quest of jurisprudence, law students would do better in achieving performative knowledge and procedural knowledge by "grinding" –

studying disciplines outside of the law and practising legal argumentation in debate clubs and public speaking competitions. It is no surprise, then, that the discipline might be considered as (1) superfluous since it is in no way unique in terms of widening lawyers' horizons. Sociology, psychology, history, and even Roman law might broaden students' horizons while providing important propositional knowledge about phenomena closely related to law. Looking beyond the legal problem most often leads to political science, sociology, or, eventually, psychology in the form of social psychology, not necessarily to the philosophy of law. Even more, students could be right in considering it (2) redundant since excellence in legal arguments is perhaps better achieved by practising and studying legal argumentation and not philosophical argumentation.

## 5. Varieties of Jurisprudence: A Walkthrough

Gardner's answer that jurisprudence ultimately widens one's perspective and develops excellence in the argument is extraordinarily deflationary compared to the usual answers to these questions in most parts of continental Europe. I remarked in the introduction that the term jurisprudence doesn't have a settled meaning. The wildly different and sometimes diverging uses of the word make it sensible to introduce some much-needed distinctions. (1) The first set of distinctions concerns the proper subject matter of jurisprudence. In this sense, it is quite usual to distinguish between general, special and particular jurisprudence<sup>25</sup>. (2) Another sensible division cuts across general jurisprudence by answering the question of how we go about doing jurisprudence. In this sense, we can distinguish between analytical and hermeneutical jurisprudence. (3) Yet another important point of contestation is based on the difference between the authors who undertake jurisprudential inquiries. Based on this criterion, we can claim that there is a difference between lawyers' jurisprudence, philosophers' jurisprudence, and philosophers of law's jurisprudence. (4) Finally, one can differentiate jurisprudential inquiries based on their aim and claim that there are at least four kinds of jurisprudence: conceptual, descriptive, normative, and critical.

Arguably, each and every one of these kinds of jurisprudence aims to provide students with the knowledge that is in the mind of their proponents and is important for aspiring lawyers and philosophers of law. In the next part of the paper, I will explain these distinctions and illustrate the propositional knowledge and practical knowledge that might be imparted to students based on the choice of jurisprudence.

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<sup>25</sup> The contrast between various kinds of jurisprudence is established in the *Lectures on Jurisprudence* by John Austin.

### 5.1. What?

Our first distinction concerns the question of the proper domain of jurisprudence. Gardner confined his jurisprudential teaching to his jurisprudential interests, which, by his admission, included issues of a specific kind of jurisprudence, often called general jurisprudence. *General jurisprudence* concerns issues not limited to any jurisdiction, legal system, or domain of law, focusing on the nature of law and legal systems<sup>26</sup>. The first element of a general jurisprudence is an account of the nature of law and «whatever else it does [...] has at its core an account of the nature of law»<sup>27</sup>. Herbert Hart argued that there is this is complimented by a set of persistent jurisprudential issues that form the core of jurisprudential inquiries, including the question of the coerciveness of law, the relation between law and morality, and the role of rules in law<sup>28</sup>.

Even if dominant, general jurisprudence is not the only game in town. It is often argued that at least a special jurisprudence and a particular jurisprudence complement general jurisprudence<sup>29</sup>. *Particular jurisprudence* focuses on studying the types of legal systems or specific legal systems. We would, therefore, say that the study of Roman, Serbian or Italian law is one kind of particular jurisprudence<sup>30</sup>. Developing the argument further, some authors forcefully argue that jurisprudence proper is always particular or parochial in that it should relate to one determinate legal system<sup>31</sup>. Others argue for general jurisprudence but protest against the «narrow range of concepts and issues» that positivist general jurisprudence focuses on<sup>32</sup>.

Finally, *special jurisprudence* is the theoretical inquiry into an area of law, like torts, criminal law, family law and so on. Some recent contributions to special jurisprudence include theories of areas of law, like labour, discrimination, tort law or criminal law<sup>33</sup>. However, one might also say that theories of judicial or prosecutorial interpretation of law, legal factfinding, collective rights, and theories of various legal institutes fall under the same category.

All of the possible kinds of jurisprudence aim to provide propositional knowledge. General jurisprudence emphasises conceptual or descriptive claims about the perennial topics of debate in the philosophy of law, particular jurisprudence identifies common traits and distinguishing features of a legal system or a type of law, special

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<sup>26</sup> Khaitan & Steel 2023: 76-77.

<sup>27</sup> Green 2005: 567.

<sup>28</sup> Green 2005: 567.

<sup>29</sup> Green 2005; Waldron 2008; Khaitan & Steel 2023.

<sup>30</sup> Waldron 2008: 5.

<sup>31</sup> Dworkin 1986: 102-103.

<sup>32</sup> Twining 1997: 178.

<sup>33</sup> Khaitan, Steel 2023: 77.

jurisprudence philosophically tackles problems that are confined to one area of law or a legal institute. A tacit claim of the less general jurisprudential accounts is the provision of the tools for classifying and interpreting the discrete objects of inquiry striving to advance law students' skills in using legal rules to solve actual and hypothetical cases. In some traditions of teaching law, this is done within discrete disciplines like criminal law, civil law, and constitutional law. Often, though, jurisprudence provides these disciplines with both theoretical grounding and critical reflection.

In other words, it would seem that Gardner's account of the study of jurisprudence relies primarily on specific limited issues of general jurisprudence, disregarding, along the way, many an issue in unique and particular jurisprudence. Issues of legal reasoning, legal argumentation, and legal interpretation have long been the focal point of interest in legal theory, and this interest shows no signs of waning. Similarly, questions on norms, their logic and language, and issues related to conditions of defeat of norms continue to captivate the field. Relations between different normative systems have been thoroughly examined in legal pluralism, a movement with a sociological inclination, and in the philosophy of law proper, which delves into the enduring traits of the relations between various normative orders in society. These problems might not count as perennial questions that Herbert Hart identified in *The Concept of Law*<sup>34</sup>. Still, they often are an indispensable part of studying jurisprudence<sup>35</sup>.

## 5.2. How?

The second way to distinguish jurisprudential efforts is by describing and, in part, ascribing certain methodological attitudes to researchers interested in general, particular or special jurisprudence issues. A common way of doing this in certain jurisprudential circles (in Italian and, to a degree, in Serbian legal philosophy) is by distinguishing between *analytical* and *hermeneutical* jurisprudence<sup>36</sup>.

Despite the domination of the analytical philosophy of law and the debates surrounding the analytical approach<sup>37</sup>, even in Anglo-American jurisprudence, there

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<sup>34</sup> Hart 1994: 7-8.

<sup>35</sup> For the most part, questions on special and particular jurisprudence on the European continent have been left to various legal disciplines. Instead of discussing legal and natural obligation issues in civil law, freedom of will and legal responsibility. This is most often the result of the fact that there are many more researchers in discrete legal fields than in the philosophy of law. However, in most cases, the authors in these disciplines rely heavily on jurisprudential and, sometimes, even philosophical writing to explain an issue in special or particular jurisprudence.

<sup>36</sup> Zaccaria 1984; Nicolaci 1989; Basta 1990, 1994; Jori 1994; Spaić 2014a, 2019. For a concise account of the many debates surrounding the proper methodology of jurisprudence see Green 2005: 576-578. I focus here on a methodological distinction based on different philosophical traditions that, it seems to me, do a better job in classifying the approaches on a global level for my present purposes.

<sup>37</sup> Green 2005: 576-578.

have been significant attempts at introducing alternative ways of doing jurisprudence. Dworkin's critical orientation towards conceptual analysis, which, for quite some time, served as a staple of contemporary legal positivism, was interpreted by many as an alternative hermeneutical theory of law<sup>38</sup>. The discussions on the possibility of a hermeneutical theory of law have continued alongside the domination of analytical jurisprudence<sup>39</sup>.

On the most basic level, *analytical jurisprudence* draws on the approaches of modern analytical philosophy to understand the nature of law. Its method and subject matter were established by John Austin's negative and positive determination of the province of jurisprudence. From a negative perspective, Austin excluded most jurisprudential issues previously discussed in Anglo-American jurisprudence from the domain of proper jurisprudence to focus the field on a narrow set of problems<sup>40</sup>. However, for the characterisation, it is far more important how Austin envisaged the method for dealing with these narrowly formulated issues. The concepts designated as the proper province of jurisprudence are to be analysed in their ordinary use, identifying the core elements that lawyers supposedly have in mind and then using them<sup>41</sup>. In the work of Herbert Hart, the anti-philosophical strains of analytical jurisprudence are connected again to philosophy, or more specifically, ordinary language philosophy, dominating Oxford in the 50s and 60s, owing to the work of J. L. Austin. Since its inception, analytical philosophy has been connected with the philosophy of natural science and with a specific way of doing philosophy that emphasises arguments, distinctions and clarity in its effort to identify the necessary and sufficient properties of things<sup>42</sup>.

However, a different strain of philosophy doesn't emphasise conceptual or ordinary language analysis. Instead, it focuses on making sense of law using the approaches developed in the philosophical writing on the European continent. Neokantianism was the staple of the work of Hans Kelsen and Gustav Radbruch<sup>43</sup>, argumentation and discourse theory was the basis of the jurisprudential writing of Robert Alexy and Jurgen Habermas<sup>44</sup>, classical and revisionist Marxist philosophies inspired and still inspire generations of legal thinkers<sup>45</sup>. I will place these various strains of thought under the umbrella term *hermeneutical jurisprudence* to exchange a loose geographical designation with a loose thematic designation. Some arguably some common traits that many authors in the continental tradition share. 1) Instead of analysing concepts, the

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<sup>38</sup> Valauri 2011; Glanert & Girard 2017; Poscher 2019.

<sup>39</sup> Spaić 2014b; Hage 2019.

<sup>40</sup> Austin 1954; Postema 2011: 31-32.

<sup>41</sup> Postema 2011: 32.

<sup>42</sup> Williams 2011: 285; Dummett 2014: 4.

<sup>43</sup> Carrino, 2016b.

<sup>44</sup> Hofmann 2016: 310-315.

<sup>45</sup> Carrino 2016b.

hermeneutical tradition focuses on making sense of the whole of the analysed practice, often by giving up on the idea of specialisation. 2) The character of the continental tradition is not scientific, nor is the tradition overly concerned with developments in the natural sciences. Instead, it is more focused on discussing the contingent social world without focusing on the necessary properties of social entities. 3) It shares the idea that the history of an event of an entity is constitutive of that entity and that, as a consequence, the problems regarding social entities cannot be discussed without considering their history. 4) Finally, the hermeneutical approach is focused on understanding the thing in its temporal and social context<sup>46</sup>.

I argued in previous work that even though these two approaches have undergone profound transformations as a result of the work of authors who draw from both traditions. Still, in discreet philosophy enterprises, like in the philosophy of law, the differentiation is present. The adherence to an approach is, by and large, inclusive in emphasising specific research methods without dismissing others. This is commonly well reflected in the manner of teaching jurisprudence. Focusing on analytic jurisprudence gives rise to teaching materials that discuss crucial legal concepts analytically<sup>47</sup>. An emphasis on hermeneutical methods often gives rise to a) the study of the history of the philosophy of law and often to b) the philosophical study of some of the issues in law that give rise to philosophical debates (like issues in bioethics, technology, etc.)<sup>48</sup>.

The focus of Gardner's jurisprudence, the version of jurisprudence he taught, is analytical. His reliance on analytical philosophy is both a strength and a limitation. While it provides clarity and precision, it often overlooks the broader social and historical contexts that shape legal systems. Even if it is contested whether hermeneutical insights can provide a more comprehensive understanding of law, it is fairly evident that it is valuable as a part of the study of jurisprudence<sup>49</sup>. With the tendency of jurisprudence to discuss such a wide range of issues that are indeed relevant for legal studies, and with the ever-present tendency to redefine its ways

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<sup>46</sup> Spaić 2014a: 131.

<sup>47</sup> Some European examples of this approach that notable in Italy in the work of Riccardo Guastini (2014), used for teaching jurisprudence in Italy and outside of it, or Giorgio Pino (2016).

<sup>48</sup> Some contemporary introductions to philosophy of law on the European continent approaching the topic from this perspective are present in the work of Alexander Somek (2018), Thomas Vesting (2018), and others.

<sup>49</sup> The Jurisprudence page on the University of Oxford website states: «Jurisprudence, in the sense relevant to this subject, is the philosophy of law. In studying it, you will learn to reflect in a disciplined and critical way on the nature, role, and importance of legal systems, legal reasoning, and legal institutions, often using examples from other parts of your law studies». A little down in the text, it is explained that the course covers the core topics by including «six tutorials covering some core topics in philosophy of law, in the traditional way». The text is available on the following link: <https://www.law.ox.ac.uk/content/jurisprudence>

of discussing law<sup>50</sup>, it seems that Gardner doesn't give enough credit to the very methods that the analytical philosophy of law employs in the work of legal scholars and practising lawyers.

But even if we grant that the philosophy of law is confined to a narrow set of issues, it is doubtful that only those inquiries that qualify as inquiries into the essential properties of things are within reach. As with any form of human knowledge, the ultimate goal of conceptual analysis is improved understanding. For Michael Giudice, this means 1) revealing confusion and disagreement, 2) explaining, organising, and structuring features of social life, and 3) introducing new vocabulary meant to provide us with better means of explaining, understanding, and speaking about law<sup>51</sup>. Julie Dickson argues that legal necessities and contingencies are invaluable for philosophy and law. They both constitute worthwhile theoretical endeavours. The philosophical task of dealing with the contingent, significant and essential features of law seeks to illuminate a human practice, identify its features and evaluate its import on lives<sup>52</sup>. Other philosophers of law claim that there are no necessary features of the law and that there is nothing that law, as a human artefact, essentially is.

### 5.3. Why?

If one belongs to the analytical tradition in jurisprudence, one might argue that the previous distinctions are contested, even confused. Still, even within the field of analytical jurisprudence, there is wide agreement that we can distinguish jurisprudential inquiries based on the aims that they wish to achieve. Herbert Hart famously characterised his effort in *The Concept of Law* as “descriptive sociology.” Hardly anyone today would characterise his inquiries as such, given that he followed J. L. Austin's dictum that «a sharpened awareness of words» allows us to «sharpen our perception of the phenomena»<sup>53</sup>.

More importantly, in the *Postscript to The Concept of Law*, it is Hart who makes the distinction between a jurisprudence that is *general and descriptive* and a jurisprudence that is *evaluative and justificatory*<sup>54</sup>. The dominant strain in analytical circles is general in that it is not tied to any legal system or culture and gives an explanation and clarification of the law. The task of general jurisprudence in this sense is to address the common knowledge of, Hart argues, an “educated man” about the essential aspects of national legal systems. The descriptive character of

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<sup>50</sup> Postema 2021.

<sup>51</sup> Giudice 2011: 65-66.

<sup>52</sup> Dickson 2017: 29-30.

<sup>53</sup> Hart 1994: v.

<sup>54</sup> Hart 1994: 240.

jurisprudence is warranted because it is morally neutral without justificatory aims, a task that is preparatory for moral criticism of the law<sup>55</sup>.

An alternative account, one rooted in the idea that jurisprudence is the general part of adjudication, is *evaluative and justificatory*. According to Ronald Dworkin, general theories of law are, for all the attempts at being morally neutral, constructive interpretations trying to show the legal practice in its best light<sup>56</sup>. Dworkin insisted that the descriptive approach championed by Herbert Hart is ultimately futile as an account of the law and that his evaluative account should replace the attempts at describing the law. Dworkin's is an old argument. In the first half of the 19<sup>th</sup> century, the historical school of law of Gustav Hugo and Friedrich Carl von Savigny made it a point to claim that the development of law is driven by the debates surrounding legal issues and that settling those debates requires an interplay of legal practice, legal science, and legal philosophy. Jurisprudence, broadly understood as knowledge about law, is an attempt to understand a community's living law in its development sustained by the work of legal science and legal philosophy<sup>57</sup>.

From the perspective of this paper, it seems sensible to adopt the commonsensical attitude adopted by Hart and even endorsed by Dworkin up to a point, according to which «it is not obvious why should there be or indeed could be any significant conflict between enterprises»<sup>58</sup>. What is more critical for us is that jurisprudence's aims determine the content taught to students within jurisprudence courses. In this sense, we can distinguish between a) *descriptive jurisprudence* that aims at identifying the necessary and sufficient conditions of law by distinguishing law from non-law (conceptual jurisprudence) or describing law as a social phenomenon by using social science or relying on it (often called sociological jurisprudence or more recently law and society); b) *normative jurisprudence* concerned with the evaluation and justification of law and various legal rules and principles, and aimed at answering the questions of the justification of the legal restriction of freedom, obligation to obey the law, justification of punishment and so on; c) *critical theories of law* that from various perspectives challenge the traditional accounts of law by relying on alternative philosophical accounts of society, knowledge, decision-making, etc. Coupled with a substantive outlook in political philosophy, normative jurisprudence can and often does take the form of specific reinterpretations of jurisprudence like the ones developed by Jeremy Waldron. Waldron, for example, explores the prospects of a particular democratic jurisprudence and argues that some aspects of legal positivism, as an analytic jurisprudence, are compatible in some ways with

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<sup>55</sup> Hart 1994: 240.

<sup>56</sup> Dworkin 1986: 90.

<sup>57</sup> Becchi 2009: 203.

<sup>58</sup> Hart 1994: 240.

his idea of democratic jurisprudence while at the same time lacking in others<sup>59</sup>. Normative theories of legal interpretation have been at the forefront of jurisprudential interests in many jurisdictions for quite some time, with originalism dominating the US debates and evolutionary interpretation dominating the European debates<sup>60</sup>. Critical legal theories have gained prominence in the last couple of decades by arguing that law should be amended to eliminate racial and gender bias<sup>61</sup>. Experimental jurisprudence has been doing its best to test the philosophical intuitions behind the crucial jurisprudential insights<sup>62</sup>.

Jurisprudence, even in its conceptual and descriptive forms, gives the law student the tools to think about the problem and argue for a solution without necessarily being committed to any proposed philosophical solutions. Instances of normative and critical jurisprudence often provide substantive performative knowledge usable by lawyers in court proceedings, adjudication, administrative application, and law creation. When he argues that one of jurisprudence's tasks is to develop law students' argumentative skills, Gardner is more inclined to Dworkin's position than he would care to admit, especially if the analytical tools of conceptual jurisprudence are translated into normative and critical jurisprudence.

#### 5.4. Who?

Jurisprudence as an enterprise that is distinguished both from legal and philosophical inquiry was defended by Dennis Lloyd. According to him, it is a separate discipline, a "bricolage" and open-minded curiosity about law. Julius Stone understood it as a lawyer's extraversion, using tools of other disciplines to understand law. William Twining defined it as the general or theoretical part of the law as a discipline<sup>63</sup>. Dominant strains of contemporary jurisprudence, including the account of jurisprudence advanced by John Gardner, have insisted that jurisprudence does not deal with legal but with philosophical problems and that jurisprudence that is not rooted in the philosophy of law is inept at tackling philosophical issues<sup>64</sup>. In contemporary Anglophone legal writing, jurisprudence has, for the most part, been incorporated into legal philosophy. This move has made it so that the methods, problems, forms of argument, and relevance criteria are validated by the academic discipline of philosophy and not by the academic discipline of law. In this way, in most of the anglophone world, philosophy of law is considered to be a branch of

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<sup>59</sup> Waldron 2008: 13-14.

<sup>60</sup> Spaić 2024.

<sup>61</sup> Green 2020.

<sup>62</sup> Tobia 2022.

<sup>63</sup> Cotterrell 2014: 43-44.

<sup>64</sup> Cotterrell 2014: 41.

philosophy that takes law as its object. The main quarrel that the philosophy of law, so conceived, had with jurisprudence is the syncretism of methods and influences characteristic of most introductions to jurisprudence.

If we conceive of jurisprudence as a theory or philosophy of law, an important classification seems to stem from the fact that the backgrounds of scholars engaged in jurisprudence are very different in various jurisdictions. Norberto Bobbio formulated this distinction as a result of the fact that the philosophy of law was traditionally undertaken by either philosophers who discussed law from the perspective of their elaborated and often comprehensive systems of thought or by jurists who used philosophical frameworks to either explain or solve the legal problems that they encountered. The distinction is not new, but it can be identified in the differences between Aristotle and Cicero, Augustine and Gratian, Thomas Aquinas and Bartolus, Leibniz and Grotius<sup>65</sup>. In contemporary jurisprudential writing, this distinction has an interesting twist. It is not so much that the philosophers are approaching law from the perspective of their all-encompassing views on social reality. It is that vocational philosophers are philosophising about law with a philosophical outlook. Contemporary philosophers' philosophy of law solves philosophical problems and deals with legal issues only as an afterthought. There are numerous core instances of this, but it is generally best exemplified by the fact that lawyers are unable to understand the vernacular used in the contemporary philosophy of law.

In the US, jurisprudence is commonly studied and taught by philosophers. Following Norberto Bobbio, we can say that the typical Anglo-American approach to jurisprudence follows the footsteps of *philosophers' philosophy of law*. In continental Europe, lawyers study and teach jurisprudence in the rest of the world. Following Bobbio again, we will call this *jurists' philosophy of law*. Traditionally, jurists' philosophy of law was even converted on the European continent into "theory of law" – the most general discipline of legal science, general dogmatics, *Allgemeine Rechtslehre*<sup>66</sup>. This development has been chiefly understood in connection to the continental positivist views on law inspired by Hans Kelsen. In contemporary jurisprudential writing, this is manifested as a tendency of the philosophy of law to primarily communicate with legal science and legal practice, attempting to translate the philosophical vernacular into explanations or evaluations that are understandable to lawyers.

Both philosophers' and jurists' jurisprudences have had very different topics of interest and histories in various parts of the world<sup>67</sup>. In common law, countries effectively share similar background cultures and the same language. In this sense, there are no real boundaries between various jurisprudential interests. In the civil law world,

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<sup>65</sup> Vega 2018: 72.

<sup>66</sup> Vega 2018: 73.

<sup>67</sup> Pattaro & Roversi 2016: xxxv.

there is a patchwork of positions and views that depend heavily on the various influences and relations between countries and the reception of the main sources of original philosophical thought<sup>68</sup>. One of this distinction's most important consequences is that most lawyers' jurisprudence is driven by legal problems. Most philosophers' jurisprudence is driven by philosophical problems. Commonly, lawyers undertaking jurisprudential issues are focused on providing a conceptual analysis, a philosophical explanation, a justification, or even a set of standards in a domain. On the other hand, philosophers tend to start with an intellectual problem exemplified in the practice of law and discuss this problem by taking law into account.

Understood outside of the philosophical core most commonly taught at law schools in anglophone legal philosophy, jurisprudence arises not from philosophical problems but legal problems<sup>69</sup>. If it is interested in «promoting the well-being of the idea of law as a socially valuable practice of regulation», it cannot just dispense of contingent social practices that give rise to the substantive law of a time and place<sup>70</sup>. Roger Cotterrell argues for a jurisprudence that is both broader in that it considers moral and political issues and deep in that it inquires into socio-legal conditions. According to him, both directions align with the idea that jurisprudential problems should arise from law as a practice and as an experience<sup>71</sup>. This “bricolage” of jurisprudence that is taught in law schools on the European continent, often as an *Introduction to jurisprudence* to first-year students of law, combines hermeneutical and analytical insights to have basic knowledge about legal concepts, developments, and phenomena that might come as a surprise to anglophone lawyers who have invested some time in the study of Gardner's kind of jurisprudence.

## 6. Conclusion: Jurisprudence as a DLC in Legal Studies

The perceived unimportance of jurisprudence and its status as a side-quest in legal studies is rooted in the narrow and often dogmatic focus of some contemporary strains of jurisprudential thought. These limited perspectives, which Gardner endorses to a degree, have led to jurisprudential issues being removed from dominant legal matters and dominant philosophical issues. In this sense, arguing that jurisprudence is a side quest with a limited scope in jurisprudential studies might

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<sup>68</sup> This is perhaps most noticeable in the various schools on the European continent and their respective foci of interest. In the last couple of generations, the philosophy of law in Genova was mainly concerned with legal interpretation, Girona is focused on evidential reasoning and evidence, and Krakow is focused on social ontology and experimental jurisprudence. My department has produced a body of literature on legal reasoning, collective rights, and international law.

<sup>69</sup> Cotterrell 2014: 49.

<sup>70</sup> Cotterrell 2014: 51.

<sup>71</sup> Cotterrell 2014: 52-53.

be a faithful elaboration of one's jurisprudential views. Still, it most probably leads to a lack of interest in philosophical questions among students of law and jurists (ironically, it does not entice much excitement among philosophers either), who unfortunately often share Dworkin's argument that jurisprudence so conceived is

distinct not only from the actual practice of law but also from the academic study of substantive and procedural fields of law', from 'normative political philosophy' and from 'sociology of law or legal anthropology [...] It is, in short, a discipline that can be pursued on its own with neither background experience nor training in or even familiarity with any literature or research beyond its narrow world and few disciples. The analogy to scholastic theology is [...] tempting<sup>72</sup>.

Narrowly conceived jurisprudence produces narrow propositional and performative knowledge. This isn't to say that the way to teach the discipline is to integrate all of the faces of jurisprudence discussed in the paper. It is to argue for a kind of teaching of jurisprudence that integrates its crucial aspects in a coherent program of legal studies. Depending on the exact modality and space in the academic program can provide students with knowledge that can encompass: 1) entire constructed conceptions of the law of geographically or thematically determined legal areas, 2) elucidated, constructed and refined legal concepts and conceptual frameworks, 3) normative theories of justice, human rights, values, 4) middle order empirical hypothesis, generalisations that help in understanding the law, 5) developed working theories of law-making, advocacy, negotiation, adjudication, 6) critically examined assumptions and presuppositions of various disciplines of legal dogmatics, such as criminal law, family law, international law etc.<sup>73</sup>. From my parochial teaching experience, I would argue that all those possibilities are best covered if jurisprudence is taught as (a) a general theory of law in the early years of legal studies and as (b) a philosophy of law in the later years of legal studies. As courses for law students, both are to be focused on imparting propositional knowledge to law students that is relevant for those students.

Having all this in mind, Gardner's points can be brought up again with minor but essential revisions:

1. Jurisprudence has the potential to present students with propositional knowledge about the main legal concepts and phenomena. This propositional knowledge is philosophical in that it's often disputed and presented as possible conceptions of various concepts. Still, it is often the only account of those main concepts that a student of law encounters. This applies to the concepts of obligation, norm, punishment, liberty, constitution, rights, and others. Philosophy of law provides propositional knowledge on the positions of actors in various

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<sup>72</sup> Dworkin 2002: 1679.

<sup>73</sup> Twining 2009: 9.

debates in the philosophy of law, including students in a dialogue between philosophers of law on various jurisprudential issues.

2. Jurisprudence, in its various forms, provides tools for lawyers to approach legal problems that often go beyond the content of legal texts. This is always true when lawyers face ambiguous, vague, or contested legal texts, and it's usually the case when seemingly straightforward legal texts are skillfully challenged by various parties. Oftentimes, particular legal disciplines, mainly when studied within legal science or legal dogmatics on the European continent, leave the impression that legal knowledge can be transferred apodictically, as either falls or valid claims about the content of law. Interpretative and factual problems in law, however, yield multiple competing interpretations and evaluations, either actually or potentially. Jurisprudence can help students become aware of the possibilities regarding the solutions of legal cases instead of confining them to one dogmatic answer.
3. Finally, in the discussion and critical reflection on philosophical issues that arise out of the practice of law, jurisprudence develops the argumentative, logical, and linguistic skills required by lawyers and the rhetorical skills sometimes indispensable for legal practice. This performative knowledge and skill developed in students of jurisprudence are useful in legal practice as much as jurisprudence is able to identify and shed light on philosophical and legal issues arising from legal practice. In a sense, the amount of knowledge that can be gained from jurisprudence makes it more akin to important additional content of legal studies than to an optional side quest.

Most importantly, the character of jurisprudence within those studies will crucially depend on the exact kind of jurisprudence one is teaching, which is not just a matter of informing students about the most recent result of inquiries in a discipline, but also something that requires some performative knowledge of a didactic kind. Of course, it might still be proper to conceive of jurisprudence as a side quest that can be skipped in legal studies without many consequences. It might also be that propositional and performative knowledge points can be gained from studying other non-strictly-legal disciplines. In this sense, students might still consider it redundant and superfluous, opt for disciplines that promise technical skills, and be prone to skip it in favour of another subject matter. But at least, if my addendums to Gardner's view are at least minimally correct, it is much harder to understand why anyone would do it.

## References

- Austin, J. (1954). *The Province of Jurisprudence Determined*, London, Weidenfeld and Nicolson.

- Basta, D. (1990). *Hermeneutika i pravo*, «Gledišta», 3-4: 88-101.
- Basta, D. (1994). «Pravna hermeneutika Artura Kaufmana», in Šuković, M. (ed.), *Osnovni problemi filozofije prava*, Montenegro, Crnogorska akademija nauka i umjetnosti: 195-215.
- Becchi, P. (2009). «German Legal Science: The Crisis of Natural Law Theory, the Historicisms, and “Conceptual Jurisprudence”», in Canale, D., Grossi, P., Hofmann, H. (eds.), *A History of the Philosophy of Law in the Civil Law World, 1600–1900*, Cham, Springer: 185-224.
- Carrino, A. (2016a). «Marxism in the Philosophy of Law», in Pattaro, E., Roversi, C. (eds.), *Legal Philosophy in the Twentieth Century: The Civil Law World*, Cham, Springer: 223-246.
- Carrino, A. (2016b). «The Rebirth of Legal Philosophy within the Frame of Neo-Kantianism», in Pattaro, E., Roversi, C. (eds.), *Legal Philosophy in the Twentieth Century: The Civil Law World*, Cham, Springer: 13-50.
- Cath, Y. (2015). «Knowing How and “Knowing How”», in Daly, C. (ed.), *Palgrave Handbook on Philosophical Methods*, London, Palgrave Macmillan: 527-552.
- Cotterrell, R. (2014). *Why Jurisprudence Is Not Legal Philosophy*, «Jurisprudence», 5(1): 41-55.
- Dickson, J. (2017). *Why general jurisprudence is interesting?*, «Crítica: Revista Hispanoamericana de Filosofía», 49(147), número especial: On the Status of General Jurisprudence: 11-40.
- Dummett, M. (2014). *Origins of Analytical Philosophy*. London, Bloomsbury.
- Dworkin, R. (1986). *Law's Empire*. Cambridge, Mass., Harvard University Press.
- Dworkin, R. (2002). *Thirty Years On*, «Harvard Law Review», 115(6): 1655-1687.
- Enoch, D. (2019). «Is General Jurisprudence Interesting?», in Plunkett, D., Shapiro, S., and Toh, K. (eds.), *Dimensions of Normativity: New Essays on Metaethics and Jurisprudence*, New York, Oxford University Press: 65-86.
- Gardner, J. (2006). *Why study jurisprudence?*. «The Inner Temple Yearbook», 7: 1-8.
- Gardner, J. (2012). «Law and Philosophy», in Halliday, S. (ed.), *An Introduction to the Study of Law*, Edinburgh, W Green: 16-31.
- Glanert, S. & Girard, F. (eds. – 2017). *Law's Hermeneutics: Other Investigations*. London, Routledge.
- Green, L. (2005). *General Jurisprudence: A 25th Anniversary Essay*, «Oxford Journal of Legal Studies», 25(4): 565-580.
- Green, L. (2020). *Gender and the Analytical Jurisprudential Mind*, «The Modern Law Review», 83(4): 893-912.
- Guastini, R. (2014). *La sintassi del diritto*. Torino, Giappichelli.
- Hart, H.L.A. (1994). *The Concept of Law*. Oxford, Oxford University Press.

- Hershovitz, S. (2015). *The End of Jurisprudence*, «The Yale Law Journal», 124(4): 1160-1204.
- Hofmann, H. (2016). «The Development of German-Language Legal Philosophy and Legal Theory in the Second Half of the 20th Century», in Pattaro, E., Rov ersi, C. (eds.), *Legal Philosophy in the Twentieth Century: The Civil Law World*, Cham, Springer: 285-368.
- Hage, J. (2019). «The Limited Function of Hermeneutics in Law», in Duarte, D., Moniz Lopes, P., Silva Sampaio, J. (eds.), *Legal Interpretation and Scientific Knowledge*, Cham, Springer International Publishing: 1-11.
- Jori, M. (1994). *Ermeneutica e filosofia analitica: due concezioni del diritto a confronto*, Torino Giappichelli.
- Khaitan, T & Steel, S. (2023). *Areas of Law: Three Questions in Special Jurisprudence*, «Oxford Journal for Legal Studies», 43(1): 76-96.
- Giudice, M. (2011). «Analytical Jurisprudence and Contingency», Del Mar, M. (ed.), *New Waves in Philosophy of Law*, London, Palgrave Macmillan: 58-76.
- Nicolaci, G. (ed.). (1989). *La controversia ermeneutica*. Milano, Jaca Book.
- Pattaro, E. & Rov ersi, C. (eds.) (2016). *Legal Philosophy in the Twentieth Century: The Civil Law World*, Cham, Springer.
- Pavese, C. (2022). «Knowledge How», in Zalta, E. & Nodelman, U. (ed.), *The Stanford Encyclopedia of Philosophy*, Metaphysics Research Lab, Stanford University. <https://plato.stanford.edu/entries/knowledge-how/>
- Pino, G. (2016). *Teoria analitica del diritto*. Pisa, Edizioni ETS.
- Postema, G.J. (2011). *Legal Philosophy in the Twentieth Century: The Common Law World*. Cham, Springer.
- Postema, G.J. (2021). «Philosophical Jurisprudence: A Vision», *SSRN Electronic Journal* <https://doi.org/10.2139/ssrn.3972708>.
- Poscher, R. (2019). «Hermeneutics and Law», in Forster, M. & Gjesdal, K. (eds.), *The Cambridge Companion to Hermeneutics*, Cambridge, Cambridge University Press: 326-353.
- Robertson, M. (2017). *More Reasons Why Jurisprudence Is Not Legal Philosophy*, «Ratio Juris», 30(4): 403-416.
- Russell, B. (1998). *The Problems of Philosophy*. Oxford, Oxford University Press.
- Ryle, G. (2009). *The Concept of Mind: 60th Anniversary Edition*. London, Routledge.
- Schwitzgebel, E. & Rust, J. (2009). *The Moral Behaviour of Ethicists: Peer Opinion*, *Mind*, «New Series», 118(472): 1043-1059.
- Schwitzgebel, E. & Rust, J. (2014). *The Moral Behavior of Ethics Professors: Relationships among Self-reported Behavior, Expressed Normative Attitude, and Directly Observed Behavior*, «Philosophical Psychology», 27(3): 293-327.
- Somek, A. (2018). *Rechtsphilosophie: zur Einführung*. Hamburg, Junius.

- Spaic, B. (2014a). *Analitička i hermeneutička teorija prava*, «Anali Pravnog fakulteta u Beogradu», 62(1): 131-151.
- Spaic, B. (2014b). «Emilio Betti's Legal Hermeneutics: Between a Theory of Legal Interpretation and a Hermeneutical Theory of Law», in Jovanović, M &, Himma, K.E. (eds.), *Courts, Interpretation, the Rule of Law*, The Hague, Eleven International Pub: 145-163.
- Spaic, B. (2019). «Tumačenje prava u okviru hermenutike Emilia Betija», *Pravni fakultet Univerziteta u Beogradu*. Beograd, Pravni fakultet Univerziteta u Beogradu.
- Spaic, B. (2024). «Evolutionary and static interpretation», in Załuski, W., Bourgeois-Gironde, S., Dyrda, A. (eds.), *Research Handbook on Legal Evolution*, Cheltenham, Edward Elgar Publishing: 341-359.
- Tobia, K. (2022). *Experimental Jurisprudence*, «The University of Chicago Law Review», 89(3): 735-802.
- Twining, W. (1997). *Law in Context: Enlarging a Discipline*. Oxford-New York, Clarendon Press-Oxford University Press.

