

Philosophy of law as a metatheory: understanding the axiomatic foundations of general theory of law

Taisiia Sokil

V. N. Karazin Kharkiv National University, Kharkiv

<https://orcid.org/0009-0004-1784-3984>

Abstract. *Traditional approaches to the Philosophy of Law and General Theory of Law are inadequate. General Theory of Law often focuses on formal analysis, risking the neglect of its axiomatic foundations. This study proposes that Philosophy of Law function as a metatheory to comprehend these axioms. Through its ontological and axiological autonomy, Philosophy of Law offers fundamental justification for GTL's tools, ensuring legitimacy and preventing legal analysis from becoming speculative.*

Keywords: *Metatheory, Axiomatic Foundations, Philosophy of Law, General Theory of Law, Ontological Autonomy.*

Given the challenges of the post-classical era and the crisis of universalist metanarratives, classical approaches to the relationship between Philosophy of Law and General Theory of Law prove insufficient [4]. The traditional discussion focuses on three main models of interrelation:

1. Philosophy of Law is part of General Theory of Law (reductionist view).
2. General Theory of Law is part of Philosophy of Law (idealistic view).
3. Complete autonomy of each discipline.

However, these models often fail to take into account the methodological dynamics that arise from the fact that General Theory of Law, focusing on the formal-logical aspects of the norm, uncritically accepts its basic premises [7].

Through the paradigm of metatheoretical analysis, Philosophy of Law can and should be viewed as a metatheory for General Theory of Law, performing the function of comprehending and critically analysing its axiomatic foundations [6]. This view is based on the fact that Philosophy of Law has axiological and ontological autonomy, which allows it to explore the essence and values of law. While General Theory of Law is limited to its form and instrumental function, Philosophy of Law provides a worldview foundation and legitimacy for this form [2].

General Theory of Law is generally accepted as a science focused on instrumental and formal-logical analysis of legal norms, studying its structure, sources, system, and functional aspects. At the same time, we can periodically hear categorical statements from legal theorists that go beyond mere description and acquire the status of uncritically accepted axioms.

This analysis focuses on the aspect of General Theory of Law that demonstrates a tendency towards positivism or dogmatism, since it is precisely in this aspect that Philosophy of Law reveals its metatheoretical function. It is important to emphasise that General Theory of Law is not always dogmatic and includes various schools (e.g., sociology of law or integrative jurisprudence), which are themselves open to philosophical reflection. However, the classical positivist core of General Theory of Law is often based on uncritical assumptions.

Such axiomatic assumptions may relate to the ontology of law. For example, when law is unconditionally identified exclusively with the will of the state or a normative act, while ignoring questions about its essence and justice. That is, in such cases, law is reduced to form, becoming the object of engineering analysis rather than value analysis.

Let us consider a few more similar axiomatic principles that limit the subject of General Theory of Law:

1. The Axiom of Value Exclusion: General Theory of Law often axiomatically excludes issues of justice and morality from its subject matter, considering them subjective and belonging to philosophy. That is, in such cases, law is viewed as a technical tool rather than a social factor with axiological significance.

2. The Axiom of Universal Stability: Dogmatic General Theory of Law may axiomatically assume the completeness and consistency of the legal system. That is, in such cases, law is perceived as a static, pre-established system, rather than a dynamic process that is constantly being interpreted and changed.

Therefore, if General Theory of Law adopts a dogmatic positivist orientation and does not subject its basic principles to criticism, then it risks becoming a self-sufficient technical discipline, detached from social reality and the moral and ethical challenges of the modern world. This creates an urgent need for metatheoretical reflection, which is offered by the Philosophy of Law.

The uncriticality regarding axiomatic principles inherent in dogmatic General Theory of Law requires the involvement of a higher-order discipline. Unlike General Theory of Law, Philosophy of Law explores the essence, meaning, and values of law, rather than just its external form. The values that form the basis of the legal system, such as justice, dignity, and equality, are axiological primaries that determine the necessity of the norm itself. Philosophy of Law, possessing ontological autonomy, makes these primaries the subject of its own reflective analysis.

This is why Philosophy of Law questions the axiom "law = norm", exploring the very essence, idea, and meaning of law, which are primary to the norm, since the norm is only a formalised means of achieving a certain value goal. Accordingly, the key role of Philosophy of Law is to reintroduce the concepts of justice, freedom, and legitimacy into legal discourse, thereby providing a moral and ethical justification for legal instruments.

Take, for example, the concept of the rule of law. General Theory of Law can only describe its structural elements (separation of powers, independence of the judiciary, supremacy of law). However, it cannot justify why these structures are better than authoritarian ones. Philosophy of Law, as a metatheory, provides this justification by exploring the ideal of freedom and dignity as an axiom without which the concept of the rule of law loses its meaning [3].

It is precisely its metatheoretical nature that prevents Philosophy of Law from being reduced to a part of General Theory of Law; instead, it serves as its worldview foundation. General Theory of Law furnishes specialised legal knowledge and tools for analysing current legislation, while Philosophy of Law provides the value and ontological basis for these tools [5]. Thus, their connection is a dialogue between form (General Theory of Law) and content (Philosophy of Law), where Philosophy of Law, as thought upon thought, constantly validates the legitimacy of theoretical constructions of law.

In summation, Philosophy of Law and General Theory of Law are autonomous but complementary disciplines. Their relationship is not limited to a "part-to-whole" model, but constitutes a metatheoretical dialogue.

Through its ontological and axiological autonomy, Philosophy of Law provides a worldview foundation, conceptualising the essence, values, and axiomatic principles of law. It acts as a metatheory that validates the legitimacy of legal constructs. General Theory of Law, in turn, provides specialised legal knowledge and tools for formal analysis of current norms.

Thus, Philosophy of Law ensures the flexibility and legitimacy of jurisprudence, protecting it from becoming a dogmatic technical discipline detached from social reality. Their constant dialogue ensures that the legal system remains open to reflection. There is an urgent need to deepen dialogue between disciplines to solve contemporary, axiologically complex problems (such as bioethics or AI law), where the formal instruments of General Theory of Law without the value-based justification of Philosophy of Law are insufficient [1].

References

1. Brownsword, R. (2019). *Law, technology and society: Re-imagining the regulatory environment*. Routledge.
2. Dworkin, R. (1986). *Law's empire*. Harvard University Press.
3. Fuller, L. L. (1964). *The morality of law*. Yale University Press.
4. Lyotard, J.-F. (1984). *The postmodern condition: A report on knowledge* (G. Bennington & B. Massumi, Trans.). University of Minnesota Press.
5. MacCormick, N. (2007). *Institutions of law: An essay in legal theory*. Oxford University Press.
6. Peczenik, A. (2009). *On law and reason*. Springer.
7. Raz, J. (1979). *The authority of law: Essays on law and morality*. Oxford University Press.