SOCIOLOGICAL APPROACHES TO THEORIES OF LAW

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Sociological Approaches to Theories of Law

Elements in the Philosophy of Law

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Abstract: This Element applies empirical insights to examine theories of law proffered by analytical jurisprudents. The topics covered include artifact legal theory, law as a social construction, idealized accounts of the function of law, the dis-embeddedness of legal systems, the purported guidance function of law, the false social efficacy thesis, missteps in the quest to answer “What is law?” and the relationship between empiricism and analytical jurisprudence. The analysis shows that on a number of central issues, analytical jurisprudents assert positions inconsistent with the social reality of law. Woven throughout the Element, the author presents a theoretically and empirically informed account of law as a social institution. The overarching theme is that philosophical claims about the nature of law can be tested and improved through greater empirical input.

Keywords: analytical jurisprudence, artifact legal theory, law as a social construction, what is law, functions of law

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