

Philosophy of Law, Theories, Examples and Human Rights

By

Charalampos Stamelos

Philosophy of Law, Theories, Examples and Human Rights

By Charalampos Stamelos

This book first published 2024

Ethics International Press Ltd, UK

British Library Cataloguing in Publication Data

A catalogue record for this book is available from the British Library

Copyright © 2024 by Charalampos Stamelos

All rights for this book reserved. No part of this book may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical photocopying, recording or otherwise, without the prior permission of the copyright owner.

Print Book ISBN: 978-1-80441-185-8

eBook ISBN: 978-1-80441-186-5

Table of Contents

Foreword	viii
Introduction	x
What is Fair? What is Law? What is Justice?	x

Part 1: Theories of Philosophy of Law

Chapter 1: Natural Law	1
1.1 Main points.....	1
1.2 Scholars	8
1.3 Analysis, criticism.....	14
1.4 Examples	33
Chapter 2: Legal Positivism	41
2.1 Main points.....	41
2.2 Scholars	46
2.3 Analysis, criticism.....	50
2.4 Examples	67
Chapter 3: Legal Formalism-Pragmatism	70
3.1 Main points	70
3.2 Scholars	74
3.3 Analysis, criticism.....	78
3.4 Examples	88
Chapter 4: Legal Realism	90
4.1 Main points.....	90
4.2 Scholars	94
4.3 Analysis, criticism.....	95
4.4 Examples	105

Chapter 5: Legal Liberalism	108
5.1 Main points.....	108
5.2 Scholars	113
5.3 Analysis, criticism.....	115
5.4 Examples	115
Chapter 6: Economic Analysis of Law and Utilitarianism	118
6.1 Main points.....	118
6.2 Scholars	125
6.3 Analysis, criticism.....	128
6.4 Examples	142
Chapter 7: Critical Legal Studies	145
7.1 Main points.....	145
7.2 Scholars	154
7.3 Analysis, criticism.....	170
7.4 Examples	188

Part 2: Philosophy of Law and Human Rights

Chapter 8: Public Law and Human Rights	201
8.1 Main points.....	201
8.2 Scholars, supporters/activists.....	204
8.3 Analysis, criticism.....	209
8.4 Examples	226
Chapter 9: Criminal Law and Euthanasia, Death Penalty	229
9.1 Main points.....	229
9.2 Scholars	234
9.3 Analysis, criticism.....	237
9.4 Examples	246

Chapter 10: Private Law and Freedom of Trade	252
Chapter 11: EU Law and the Four Freedoms	265
Chapter 12: International Law and Freedom of Thought	270
Concluding Remarks	277
The Philosophy of Law in Cyprus and the International Philosophy of Law in the Digital Age of the 21 st century: a Holistic Analysis	277
A synthesis of theories in a virtual debate	283

Foreword

The Philosophy of Law reflects on the science of law itself, analysing and proposing new approaches to legal frameworks. This field is divided into two branches: Analytical, focusing on the analysis of the law, and Regulatory, concerning regulation and proposed solutions.

This work aims to concisely introduce students of Law Schools to the main schools and theories of the philosophy of law. Each chapter is structured into four paragraphs: the first analyses the key points of the theory, the second refers to its main scholars, the third critiques the theory, and the fourth provides examples.

In addition to outlining the principal theories in the philosophy of law, the second part of this book underscores the importance of human rights as foundational values for various branches of law. Each chapter in this section analyses a branch of law—public, criminal, private, European Union, and international law—emphasising the significance of human rights, human dignity, freedom of trade, movement, and thought.

A comprehensive analysis of all theories in the philosophy of law is beyond the scope of this book, as even a multi-volume work would be insufficient. Therefore, this book selects key theories based on their relevance to the legal systems of Greece, Cyprus, and other countries adhering to continental/civil law systems, Anglo-Saxon, or mixed legal traditions, including Germany, France, Italy, Spain, Belgium, the Netherlands, Portugal, the EU, England, Israel, and the US.

Historical references are integral to this work, especially the contributions of Greek philosophers such as Plato and Aristotle, whose timeless concepts of justice, law, rules, peace, virtue, and ethics form the foundation of legal philosophy. The philosophies of other cultures, particularly from the Middle and Far East, also play a significant role. Notably, Chinese legal philosophy, with contributions from Laozi and Confucius, offers valuable insights, especially regarding natural law. Modern theories of the philosophy of law from Europe, America, Asia,

and Africa are also examined, with special attention given to China's unique combination of Marxism, Leninism, Maoism, Taoism, and Confucianism.

The philosophies underpinning the Chinese legal system, along with those from the US and European countries, are analysed, with a particular focus on Greece and Cyprus, and the EU.

The Epilogue highlights the significance of Cyprus in the philosophy of law, given its historical and contemporary legal challenges. From the ancient Cypriot kingdoms and the Roman era to the present day, Cyprus's mixed legal system and its quest for justice on an international level demand special attention. The island's ongoing struggle for a just resolution underscores the relevance of legal philosophy.

This work also aims to provide a holistic analysis of law, integrating historical themes and emphasising key phrases for contextual clarity. It is structured to facilitate a gradual understanding of legal philosophy for students, aiding their research and deepening their comprehension of various theories.

For comments, thoughts, or remarks, please contact me at charalampos-stamelos@gmail.com.

This work is dedicated to the memory of my beloved uncle, Nikolaos Sklias, a distinguished Judge of the Hellenic Administrative Supreme Court (Council of State, *Symvoulío tis Epikrateias*) and a respected Professor of the Greek National School of Judges and author of legal books. Although he has passed away, his legacy in the field of law, particularly in public and tax law, and his principles of honour and integrity in judicial practice continue to inspire me and for sure will guide future generations of jurists in Greece, Cyprus and abroad.

Dr Charalampos Stamelos

Assistant Professor, European University Cyprus Law School
Athens-Nicosia, 20 July 2024

Introduction

What is Fair? What is Law? What is Justice?

“Hundreds of eyes are now fixed with admiration on the face of Polyzoides. They are proud of him and inside they feel the beauty filling their breasts which courage and justice give” (1).

What is fair? What is law? What is justice?

These are fundamental questions in the Philosophy of Law, especially within Analytic Philosophy of Law and Natural Law. These questions are inherent in human history, emotions, society, ethics, economics, and politics.

What is the purpose of law? What are the moral or political foundations of law? These are also central questions in the Philosophy of Law, particularly in the Regulative Philosophy of Law and Natural Law.

Scholars from diverse countries and cultures have grappled with these questions. From China to the United States and across time, orators, judges, lawyers, professors, and philosophers have proposed theories, raised concerns, and provided unique responses. Even artists have expressed their interpretations of justice and law through their creations (2).

There are inherent limitations in addressing these questions: spatial (focusing on Greece and Cyprus (3) with references to England, the USA, and China), temporal (from ancient Greece (4) to the present), and linguistic (5) (limiting sources to Greek, English, French, German, Italian, and Spanish).

These limitations are also relevant in other sciences where language can affect the philosophy of those fields.

For example, mathematical science gained the structure of a true science with Euclid’s introduction of axioms and theorems in “Elements”

around 330 B.C., coinciding with Aristotle's foundation of "Logic" (6).

The lack of precision in mathematical terms is a problem even today, which is due to the use of words derived from everyday language (7).

If the Philosophy of Mathematics seeks answers to the question of terminology and exactitude, then how much more so the Philosophy of Law.

Both fields relied on precise terms, a problem that persists today, impacting the Philosophy of Mathematics and, by extension, the Philosophy of Law. In Greek, "law-dikaion" and "law-nomos" differ terminologically and conceptually, whereas in English, both are referred to as "law".

In fact, we ignore the full extent and the full depth of the terminology of every nation, every people, every state on the concepts of law (8).

International treaties and conventions offer a unifying factor for legal terms, despite terminological variations.

The "right to life" is universally understood as a state's obligation to protect its citizens' lives. However, this right's absoluteness is debated, as seen in the varying global stances on the death penalty.

The Philosophy of Law explores these questions and proposes solutions concerning law and justice. Pioneers like Plato, Aristotle, Sophocles, and Epicurus laid the foundations of modern legal philosophy. The first chapter of this book covers their ideas extensively.

Meanwhile, ancient Chinese civilisation, with its "Golden Century," also contributed significantly to the philosophy of law.

Similar views on natural law appeared in Greece, Israel, India, and China centuries before Christ. Modern surveys reveal parallels in contemporary American and Chinese legal philosophies (9).

The book's subsequent chapters discuss modern legal theories in relation to the Philosophy of Law.

The first pair of concepts (natural law vs. legal positivism) revolves around the supreme law (divine law, God, ethics, fundamental law).

The second pair (pragmatism vs. realism) focuses on the practical application and tangible results of the theory.

The third pair (left-wing legal liberalism and critical legal studies vs. right-wing legal liberalism and economic analysis of law) centres on political ideology and the left-right dichotomy. Ethics, practice, and politics are thus the three main axes around which legal philosophical theories have evolved.

Finally, the question arises: is there or should there be a legal theory or a theory of law?

Many debates actually focus on applying theories from other fields to legal theory, such as moral theory, political theory, or social theory. For instance, traditional natural law theory applies a general moral theory to law, while legal positivism applies general principles of social theory to the field of law. Feminist legal theory, critical race theory, and critical legal studies apply specific critical social theories to law (10).

Issues like justice, punishment, and the moral obligation to obey the law involve applying general moral theories to legal questions, or considering the internal morality of law as something specific to law itself (11).

On the other hand, Engisch poses the question: "how are we to imagine this reason behind the law?" To answer this, he explains that "the legal science of interests offers a clear and enlightening view of the relationship between the law and the underlying principles." This methodology, developed by Philipp Heck, focuses on interpretation, gap-filling, and correcting errors. Heck's lecture on the jurisprudence of interests from 1933, which summarises academic teachings at the time, serves as a foundational approach. Heck emphasises that "the legal science of interests is a methodology for legal science and not a philosophy of law."

Although Engisch elaborates on the theory of interests in the final chapter of his book titled "From Law to Law and From Jurisprudence

to Philosophy of Law,” he acknowledges Heck’s clarification that the jurisprudence of interests is a methodology for jurisprudence and not a philosophy of law. However, Engisch himself disagrees with Heck.

Engisch argues that Heck’s concept of “interestocracy” involves dealing with the issues of the philosophy of law (12).

This disagreement highlights the expansive scope of the Philosophy of Law (13).

If one legal scholar argues that their analysis does not belong to the Philosophy of Law, and another scholar interprets it differently, leading to different conclusions, it becomes clear that the field is vast and chaotic.

The addition of theories of law, legal methodology, history of law, and sociology of law further complicates this scope.

Indeed, both historical schools of law within the philosophy of law and social legal theories have emerged. This is because philosophy has no limits—what may seem transcendental or obsolete today might become the subject of future research and study in both general philosophy and the philosophy of law.

“The theoretical clarification and legitimation of these efforts—validation, localisation, general principles of law, legal truths, ethics, and the analysis of common law and judicial precedents in England, the USA, and Cyprus (14)—certainly leads from purely legal hermeneutics and methodology to philosophical thought and its unique modes of knowledge. Jurists must observe and consider this area as the basis of their thoughts, but they cannot clarify and consolidate it by their own mental means alone.

Therefore, this introduction to legal thought stops at the frontiers of this field, not because the philosophy of law does not concern the jurist, but because there is a division of responsibilities between legal and philosophical methodology that the conscientious theoretical jurist must respect.” (15)

Thus, this book focuses on a few topics that some may consider important for the philosophy of law, such as eunomia, self-interest, revolution, and mercy (16).

Law students should be introduced to the primary issues raised by the Philosophy of Law. It is important to remember that “law is a set of general and abstract rules that regulate human behaviour in an organised society (the state) in a compulsory and heteronomous manner.

A rule of law is a statement of legal regulation which, when conditions are met, produces specified legal effects.

Moral rules govern the conscience, motives, and actions of individuals, aiming at moral perfection. Established law refers to custom, morality, and tradition as sources of law.

Custom, when reduced to a secondary source of law by the law itself (good faith, common decency), is also a source of law. Custom, as a primary source of law, is characterised by long-standing, uniform, and uninterrupted conduct with a belief in the law and self-commitment.” (17)

Article 1 of the Hellenic Civil Code states that “the rules of law are contained in laws and customs.”

In the Concluding Remarks, the Philosophy of Law as it relates to Cyprus is noticed. Cyprus is an interesting case for several reasons.

First, Cyprus has a long history dating back to the Ancient Cypriot Kingdoms or even earlier, to the single Kingdom of Alasia (18).

Second, Cyprus has been a crossroads of cultures, institutions, and legal traditions—from Hellenistic to Roman times, Byzantine times, and through Frankish, Venetian, Ottoman, and British rule.

Under British rule, Cyprus successfully combined its local peculiarities as a trade and culture hub with imported institutions, creatively assimilating them.

Third, even today, Cyprus experiences significant injustice. The current situation in Cyprus challenges every current of the Philosophy of Law, every philosopher of law, every researcher, scholar, student, lawyer, and citizen. Since 1974, an illegal establishment of a pseudo-state has become a *de facto* state (theory of legal pragmatism), while the *de jure* state remains the Republic of Cyprus. A viable and just solution to the Cyprus Problem is an opportunity for those who serve law and justice.

Fourth, although legal theorists usually avoid focusing on individual states in terms of the Philosophy of Law, because principles and values are generally considered to have global or national relevance, Cyprus's situation, with the presence of United Nations forces, raises practical issues of applying international law in the territory of the Republic of Cyprus. The intertwining of domestic law, the "mixed legal system," EU law, and international law in Cyprus warrants specific consideration. A monograph on the Cyprus example and philosophical reflections on law would be particularly interesting.

Fifth, this idea should encourage law students and lawyers to further study the Philosophy of Law in Cyprus and for Cyprus. Sometimes such a focus can inspire a scholar, researcher, reader, or lawyer to develop a project on the Philosophy of Law in Cyprus. Therefore, the final pages of this book may serve as an impetus for writing more books on the Philosophy of Law and Cyprus or within the legal order of the Republic of Cyprus, referencing both domestic and international law.

Similarly, the Concluding Remarks briefly address the issues raised for the Philosophy of Law in the digital age of the 21st century. It is worth noting that the title "Philosophy of Law in Greece and Cyprus" might seem unusual to some, as the term typically refers to the Philosophy of Law in a more general sense.

Having studied several textbooks and books, it is apparent that authors inherently question whether their inquiries have definitive answers. They often present concerns in a discursive, relativistic, or even agnostic manner. My own question is: how can one title a book "Philosophy of Law" when there are so many unknown schools and theories of the

Philosophy of Law in states beyond those traditionally associated with it? Perhaps the global legal community is ready for a new era where the international philosophy of law or the philosophy of international law addresses global problems clearly and presents proposals and solutions for urgent issues like climate change and the optimal protection of human rights and individual freedoms.

Notes

1. Fotiadis, D., *The Trial of Kolokotronis and Plapoutas*, Eleventh Edition, Zacharopoulos, Athens, 1987, 459. The author refers to Anastasios Polyzoides (1802-1873), a Greek judge who studied law in Vienna and Berlin. He was the main author of the Declaration of Independence of Greece, as incorporated into the Provisional Constitution of Greece. In 1832, he was the President of the Nafplion Court of Appeal which tried Kolokotronis and Plapoutas (and others) for high treason. Georgios Tercetis and Anastasios Polyzoides himself refused to sign the death sentence, knowing the innocence of the accused. Kolokotronis was a hero of the Greek Revolution, not a traitor, as he was unjustly accused. Polyzoides was imprisoned and tortured in prison. His refusal to accept the brutal state interference with the Regent's justice was indicative of the integrity of his character. Otto appointed him Vice-President of the Supreme Court and in 1837 Minister of Education. He founded the National University of Athens (later the National and Kapodistrian University of Athens). He wrote, among other things, the General Theory of Parliamentary Affairs (1825). He is considered a timeless symbol of the independence of the judiciary and the judicial function. Cholos, K.V. *Anastasios Polyzoides, The Judge, the Scholar, the Politician*, Athinai, 1994. In 1974 Panos Glykofrydes directed a cinematographic play entitled: *The Trial of the Judges*, highlighting the heroism of Tercetis and Polyzoides as symbols of judicial independence. 'Morally great is he who, according to the expression of the Gospel, 'lays down his life for the sake of his neighbour''. See, e.g., Michaelides, V. *Ninth of July 1821*, in *Anthology of Cypriot Literature*, Volume A, Andreou Publications, 1986, 187-199, a poem about the heroism of Archbishop Kyprianos, who was executed by the Turks in Cyprus for his active participation in the 1821 Revolution. See also Anastasiadis, A., *Political and Constitutional History*, 35.
2. Even poets and writers. See Sophocles, *Antigone*. In Chapter One we refer to the conflict between natural and divine law, as presented by Sophocles in his tragedy *Antigone*. See Kafka, F., Translated by Valourdos, G., *The Trial*, Grammata, Athens, 1991, 161. The law, which I have not read, states that the innocent person is acquitted and nowhere does it say that you can influence the judge. In my experience, however, the exact opposite is true.

3. We come back to Cyprus in the Concluding Remarks.
4. When we refer to ancient Greece, we are referring to a geographical area of the then Greek world, which covered vast areas of Europe, Africa, and Asia, especially after the spread of Greek civilisation from Alexander the Great to Egypt and Asia.
5. "The weapon of the people of the tavern is language," Cervantes, Risos, D. (translation), *Don Quixote*, Volume Two, Letters, 1997, 298. "In the afterlife there are no borders. So says Sid Hamet, Mohammedan Philosopher", Cervantes, *Don Quixote*, op. cit. "Language leads philosophers to all kinds of confusion according to Wittgenstein", Warburton N., Lambrakos, G. (transl.), *Little History of Philosophy*, Pataki Publications, Athens, 2012, 246. Erasmus in 1510 had expressed the view that he wanted the Bible to be translated into all languages. Today the New Testament has been translated into 2,191 languages, while the Old and New Testaments have been translated into 670 languages. The original languages were Hebrew, Aramaic, and Greek.
6. For Aristotelian theory and democracy in the Athenian politeia, see Schmidt, M. G., Paschos, G. (epimetre), Dodos, D. (ed.), Dekavalla, E. (translation), *Theories of Democracy*, Savalas Publications, Athens, 2004, 37-63.
7. Dimara, D., *Philosophy of Mathematics, Classical and Contemporary*, Third Edition, Dodoni Publications, Athens, 1975, 336, 306 ("fraction"); "Some consider Mathematics as a part of Logic only", Dimara, op., 312. Cf. Stamelos, I., *Mathematics in Justice and the Letters of Virtue*, Ocelot, Athens, 2017.
8. For example, see Stamelos, C., *English Legal Terminology*, Nomiki Bibliothiki, Athens, 2006.
9. Laozi, *Dao De Jing*, 400 BC (a treatise on Taoism, natural law and the philosophy of law in China). This text has been translated into more than 250 languages. See for example Laozi, Tsakalis, A. (translation), *Tao Te Jing, The Way of Wisdom*, Dharma Publications, Athens, 2016. See also the translation and introductory comments by Kouropoulos P. in the 1996 edition of Laozi, *Tao Te Jing*, Fagotto Publications, Athens, 1996.
10. "Is there justice in this world?" Eco, U., Fedriga, R. (eds), Patika, V. (translation), *The History of Philosophy, From the Presocratics to Aristotle*, Volume 1, Ellinika Grammata, Athens, 2018, 21.
11. Bix B., *Philosophy of Law, Theory and Interpretative Framework*, Foreword by Hatzis A., Translation by Anastasia Karastathi, Scientific Editors: Yataganas, X., Hatzis, A., Kritiki Publications, Scientific Library, Athens, 2007, 29-59.
12. See also Filios, P., *Philosophy of Law*, 32-33: genetic and hermeneutic interestocracy.
13. On the question of the general criteria of right law and the question of the imperatives, the dictates of law see Engisch, K., Spinellis, D. (translation).

tion), *Introduction to Legal Thought*, Third Edition, National Bank Cultural Foundation, Athens, 1999, 218. He continues his analysis of the weighing of interests (224) and concludes that 'by assessing interests and other causal factors in the formation of law we reach a higher level, where we encounter new concepts such as the concepts of justice, leniency, moral responsibility, human dignity and respect for the person. Now if the awareness of these evaluations were simply the search for the evaluations on which the law has historically been based, then we would remain committed to positivism. But we have seen in the legal science of interests a movement that was to lead us beyond the will of the legislator to the legal considerations that lie behind the law (218)' (ibid., 225-226). "Thus, the problem of 'law-dikaion (fair justice) and law-nomos' is increasingly becoming the central point of legal methodology" (227). "But then the question arises: when do we enter the field of the problems of the philosophy of law?" (228). 'At the interface between legal methodology and philosophy of law is Theodor Viehweg's concept of "local" {see also Filios, *Philosophy of Law*, 107}. This concept, which already appears in the *Organon*, i.e. in Aristotle's brilliant *Logic*, underwent many changes and was considered by thinkers such as Kant to belong to the realm of sophistry and chatter." (228). The author discusses interpretation, gap-filling and vague legal concepts in the context of *Introduction to the Science of Law*, as has been done by the author in a previous university textbook. In contrast, Philios (*Philosophy of Law*) also examines these issues in the context of the Philosophy of Law. More correct and consistent is Englisch's choice, which is also followed here.

14. Apokidis, K., The influence of the British Empire on the Cypriot legal system. In: *Journal of Law*, vol. 7, 2017, 23-30.
15. Englisch, op. cit., 232.
16. Indicative topics of other books on the Philosophy of Law include, apart from the study of the theories of the Philosophy of Law, topics such as natural law, legal positivism, etc. Additionally, the following topics are discussed in the Philosophy of Law: the relation of law to justice, eunomia (Pindar, Thirteenth Olympian, verses 6-8), ethics, revolution (the right to resist unjust law), political realism and Machiavellianism, the logic of the state, anarchism, cosmopolitanism, anti-power, the nature of law, the Bible, the Koran, religious texts and sacred rules, the Radbruch formula, relativity and living power (the popular spirit), the imperative force of law (normative, Kelsen, and guarantee), individual and social morality, the preconceptions of reality, legal anthropology and anthropobiology, cultural anthropology, paranoia and atrocities, interestocracy (discussed immediately above with reference to what Englisch argues), phenomenal right, social events and their effect on law, legal certainty (activism, adjudication, clarity, transparency, stability and reforms in law), leniency and related concepts (Christian and charitable leniency, institutionalised leniency, pardon and amnesty), aesthetics, humour, etc.
17. Karakostas, I. K., Triantos, N. (ed.), Varela, M. (co-author), *Civil Code, Gen-*

- eral Principles*, Volume One, Nomiki Bibliothiki, Athens, 2006, 5-8. See also Panagopoulos, K. D., *Introduction to Law and Civil Law, Law and Economy*, P. N. Sakkoulas, Athens, 1999, 15-24.
18. Stamelos, C., *Ancient Cypriot Kingdoms: Political and Legal Aspects of Their Regimes (1200 BC to 30 BC)*, in Frenkel, D., Varga, N., *New Studies in History and Law*, Athens Institute for Education and Research, Athens, 2019, 121-132. See also Stamelos C., *History of Greek and Cypriot Law*, Nomiki Bibliothiki, 2018.

Part One

Theories of Philosophy of Law

The philosophy of law concerns the development of concepts and theories to clarify and comprehend the nature of law, its sources of validity, and its societal role based on a variety of languages, cultures, national developments and trade customs in a constant interaction. In Anglo-Saxon countries, 'jurisprudence' refers to legal philosophy and sometimes to court jurisprudence, i.e. case law, precedents (given that common law primarily derives from judicial decisions). All branches of philosophy—ethics, politics, logic, epistemology, existentialism, and logical positivism—can contribute to the philosophy of law without requiring full acceptance of a particular philosophical perspective.

On a broader note, philosophy can be defined—though arriving at a universally accepted definition is challenging due to philosophers' diverse focuses—as the critical examination and reflection on the fundamental bases of our core beliefs. It involves the analytical approach of basic concepts essential to formulating and expressing these beliefs linguistically.

Philosophy can also be understood—despite the aforementioned definitional challenges—as reflecting on the diversity of human actions and experiences. It encompasses the rational, methodical, and systematic exploration, investigation, review, and examination of areas, issues, and subjects of significant importance to humanity.

We briefly attempt to illuminate some aspects of the origins and historical foundations of evolved philosophies in both the Western and Eastern traditions, and briefly indicate how they interact with each other directly or indirectly through trade, law, and customs, shaping methods of thinking up to modern times.

Philosophy, including the philosophy of law, does not exist in a vacuum. Across various regions of the planet, people began engaging in philosophical thought, discussion, research, and the quest for ideas primarily after securing basic necessities like food and wealth. For instance, ancient Greeks and Arab philosophers thrived in societies where safety and prosperity were already established, allowing arts and sciences to flourish. In this introductory paragraph, we briefly explore the political,

economic, and cultural backgrounds of various civilisations to understand how specific cultures and exchanges led to the development of different schools of thought, which is examined in the following chapters.

We present facts, evidence, and texts that demonstrate the interaction of great empires, cultures, peoples, and philosophies worldwide. This brief presentation shall not be in a strict chronological, cultural or geographical order. It starts from the Greek dimension of philosophy and then travels to various areas and eras in Europe and in Asia to reveal the global truth of economic, cultural and philosophical exchanges. Each reader could change the starting point and decide to create a chronological, cultural or geographical order. In any case, through a holistic analysis, we can see and understand the broad picture: when societies expand militarily or spiritually, and when they introduce new concepts and ideas to the world, they have greater opportunities to spread these ideas globally. For example, Aristotle's method of logic or the method of Socrates are universally accepted today, a testament to the wide influence of ancient Greek philosophy. Similarly, Roman, Arab, Indian and Chinese philosophers made significant contributions to global thought.

The idea of love and respect based on the teachings of Jesus Christ has influenced countless people around the world, illustrating the profound connection between philosophy, ethics, rules, and laws. The impact of these philosophies has been immense, both historically and in contemporary times, demonstrating a timeless quality. Furthermore, the influence of Arab philosophers, who translated Greek works and developed their own philosophies, was later incorporated into Islamic ethics. Today, Arab and Muslim cultures possess not only military and economic power but also significant cultural influence.

This phenomenon of regional or global influence is not unique to Arab or Greek thought; it applies equally to Roman, Western, Indian, Chinese, Japanese, and Korean philosophies, among others. We could say that a superpower is a country with military power and there is also the possibility of this or another country to be a superpower in culture, including philosophy.

We now explore the historical evolution of cultures in the West (Europe) and the East (Middle East, India, and the Far East) and their interactions from a holistic perspective in the aforementioned framework of understanding. This exploration sets the stage for studying the various schools of thought in the philosophy of law.

In his *History of Philosophy*, Umberto Eco notes that in ancient Greece, it was believed that philosophical inquiry began as a response to paradoxical phenomena. He writes:

“There is a cultural reason why the history of philosophy extends beyond the Greeks. Greek thought shaped Western thinking, and understanding Greek thought is essential for comprehending how we have continued to think for the past three thousand years” (1).

We must add that Greeks did not only shape Western thinking, but also Asian thinking, at least Arab, Middle East, Indian and Far East thinking.

Richard Walzer notes on the Greek philosophy influencing Arab thinking:

“la philosophie grecque n’a pas été imposée aux musulmans, et les traductions furent entreprises parce que les musulmans avaient spontanément décidé d’intégrer à la littérature arabe cet héritage étranger” (2).

“Greek philosophy was not imposed on Muslims, and translations were undertaken because Muslims had spontaneously decided to integrate this foreign heritage into Arabic literature.”

Thus, Aristotle’s works are indeed among the most cited in the history of philosophy. His influence is pervasive across disciplines such as ethics, politics, metaphysics, logic, and more, e.g. psychology or biology. It’s not uncommon for his works to be cited tens of thousands of times collectively in academic literature worldwide.

Collectively, the writings of ancient Greek philosophers, including figures like Plato, have profoundly influenced diverse fields of study. Individually, these philosophers vary in terms of citation counts, but as a collective group, they undeniably shaped not only Western thought but also

Middle Eastern, Arabic, and Indian intellectual traditions. Alexander the Great played a pivotal role in spreading Greek thought to these regions, accompanied by Greek philosophers. During the Hellenistic period following Alexander the Great's conquests, Greek influence on Indian thought was profound. Greek philosophical ideas, particularly from the schools of Plato, Aristotle, and Stoicism, made their way into Indian intellectual circles through cultural exchanges and interactions with Hellenistic kingdoms in the northwest regions of the Indian subcontinent. Greek philosophers, including Pyrrho, Anaxarchus, and Onisicritus, accompanied Alexander the Great during his eastern campaigns. During the 18 months they spent in India, these Greek philosophers engaged with Indian philosophers known as 'gymnosophists', or 'naked philosophers'.

This interaction facilitated the introduction of Greek philosophical ideas to India, influencing Indian thought and contributing to the syncretism of Hellenistic and Indian philosophical traditions. This period saw in the Indo-Greek Kingdom and Kushan Empire (1st-3rd centuries AD) the blending of Greek and Indian philosophical traditions, contributing to the development of Greco-Indian philosophical syncretism, which influenced various aspects of Indian intellectual and cultural life for many centuries, also affecting Buddhism in temples, the arts and philosophical thinking (3).

Additionally, Arab scholars made significant contributions by translating a vast number of ancient Greek texts into Arabic (4).

Then, in Renaissance the ancient Greek texts were translated not only from Ancient Greek but also from Arabic to Latin (5).

This is a short indicative group of translations of ancient Greek works by significant Arabic philosophers of subsequent eras.

1. Al-Kindi, Abu Yusuf Ya'qub ibn Ishaq. *Categories by Aristotle* (الكندي، الأقسام لأرسطو); *Ethics by Aristotle* (الأخلاق لأرسطو); *On First Philosophy (Metaphysics) by Aristotle* (الميتافيزيقا لأرسطو); *On the Heavens by Aristotle* (عن السماوات لأرسطو); *Republic by Plato* (الكندي، أفلاطون) 8th century.

2. Al-Farabi, Abu Nasr. *On Interpretation by Aristotle* (الفارابي، تفسير); *Nicomachean Ethics by Aristotle* (الفارابي، الأخلاق النيكوماخية لأرسطو); *Physics by Aristotle* (الفارابي، الفيزياء لأرسطو); *Prior Analytics by Aristotle* (الفارابي، التحليلات الأولى لأرسطو) 9th century.
3. Ibn Sina (Avicenna). *Metaphysics by Aristotle* (ابن سينا، الميتافيزيقا لأرسطو); *On the Soul by Aristotle* (ابن سينا، عن النفس لأرسطو); *Physics by Aristotle* (ابن سينا، الفيزياء لأرسطو); *Poetics by Aristotle* (ابن سينا، بويتيقا لأرسطو); *Rhetoric by Aristotle* (ابن سينا، الرهائن لأرسطو) 10th century.
4. Ibn Rushd (Averroes). *Metaphysics by Aristotle* (ابن رشد، الميتافيزيقا لأرسطو); *Nicomachean Ethics by Aristotle* (ابن رشد، الأخلاق النيكوماخية لأرسطو); *On Generation and Corruption by Aristotle* (ابن رشد، عن التوليد والفناء لأرسطو); *Politics by Aristotle* (ابن رشد، السياسة لأرسطو); *Posterior Analytics by Aristotle* (ابن رشد، التحليلات اللاحقة لأرسطو) 12th century.

Ancient Greek philosophers like Aristotle and Plato had a profound influence on Arab philosophers, extending beyond mere translations in metaphysics, ethics and political philosophy. This influence began around 820 AD with the first Arab philosopher, Al-Kindi.

Leader of the first generation of Arab philosophers based on Greeks, Abū Yūsuf Ya‘qūb ibn ‘Ishāq aṣ-Ṣabbāḥ al-Kindī (Arabic: أبو يوسف يعقوب بن إسحاق الصبّاح الكندي; Latin: Alkindus; 801–873 AD) was a polymath of Arab Muslim descent, known for his contributions as a philosopher, mathematician, physician, and music theorist. Al-Kindi is regarded as the first Islamic peripatetic philosopher and is celebrated as the “Father of Arab Philosophy” (6).

Born in Kufa and educated in Baghdad, Al-Kindi played a significant role in the House of Wisdom, where Abbasid Caliphs entrusted him with overseeing the translation of Greek scientific and philosophical works into Arabic.

His exposure to Hellenistic philosophy profoundly influenced him, leading him to synthesise, adapt, and promote Greek and Peripatetic

philosophical ideas within the Muslim world, also for laws and ethics influencing the next generations of Arab philosophers (7).

Al-Kindi authored hundreds of original treatises covering a wide array of subjects, including metaphysics, ethics, logic, psychology, medicine, pharmacology, mathematics, astronomy, astrology, optics, and practical topics such as perfumes, swords, jewels, glass, dyes, zoology, tides, mirrors, meteorology, and earthquakes (8).

His most significant contribution to Islamic philosophy was his endeavour to render Greek thought accessible and acceptable to a Muslim audience. Influenced particularly by Platonic realism, Al-Kindi embraced Plato's concept that everything in the material world corresponds to universal forms in the celestial realm. While his philosophical methodology was not always innovative and was critiqued by later scholars for its initial clumsiness in Arabic-language philosophical discourse, Al-Kindi effectively integrated Aristotelian and Neo-Platonist doctrines into an Islamic philosophical framework. This integration played a crucial role in introducing and popularising Greek philosophy within the intellectual circles of the Muslim world (9).

In his book 'The Forty Chapters' ('The Book of the Judgments') the Arab philosopher writes: "those things which are confirmed to happen most frequently between two people are controversies. If a matter of controversy is being undertaken, it claims the judge, if a negotiation, a helper in the matter, if partnership and friendship, it regulates the cause of their benevolence and esteem" (10). The philosopher clearly presents the reality and the causation in a philosophical way close to Aristotle's logic (he thought of himself as 'an Aristotelian', even if he largely adopted Neo-Platonism). Representing the second generation of Arab philosophers based on Greeks, Al-Farabi (870-951) based on Aristotle and Plato created his own philosophical system. He is considered as the 'Father of Islamic Neoplatonism' (11).

He admitted that democracy is the ideal state, but it was from democracy that imperfect states emerged (12). In Baghdad and in Damascus he interacted with Syriac Christian scholars (13).

In his *Appearance of Philosophy* (*Fī Zuhūr al-Falsafa*), al-Farabi notes:

“Philosophy as an academic subject became widespread in the days of the Ptolemaic kings of the Greeks after the death of Aristotle in Alexandria until the end of the woman’s reign” [i.e., Cleopatra’s].

Ibn Sina (Avicenna) (970-1037) was the preeminent philosopher representing the third generation of Arab philosophers based on the Greeks (14).

A significant Arab scholar, Sa‘id al-Andalusi (d. 1070), after 200 years of Arabic translations of the Greeks and three generations of Arab philosophers based on the Greeks, gives the following account: “The language of the Greeks (Yunaniyun) is called Greek (ighriqiya). It is one of the richest and most important languages in the world. Their scholars used to be called philosophers (falasifa).

Philosopher (faylasuf) means in Greek ‘friend of wisdom’. The Greek philosophers belong to the highest class of human beings and to the greatest scholars, since they showed a genuine interest in all branches of wisdom, mathematics, logic, natural science and metaphysics, as well as economics and politics” (15).

Ancient Greek philosophers like Aristotle and Plato still have a profound influence on modern Arab philosophers. Most scholars frequently side with the opinion that what gave rise to the intellectual tradition of *falasifa* (the Arabic word for philosophy) was the so-called movement of translation from Greek (16).

This rich interplay of ideas between East and West, facilitated by the translation movements and cultural exchanges, underscored the global impact of Greek philosophy and its enduring influence on subsequent intellectual traditions.

Further and many centuries before the Greek influence on Arabs, almost 1,000 years ago, Middle Eastern thinkers were influenced by Greeks, and this influence extended to the Indians in the Bactrian Kingdom and the Indo-Greek Kingdom after the death of Alexander the Great since

the 3rd century BCE. Through the influence of Buddhism (Greco-Buddhism), Greek thinking also affected Far Eastern thought in China, Japan, and Korea, but also in the Arab world later.

For example, in the *Periplus of the Erythraean Sea*, an unknown author or Arrian (60-100 AD) mentions the Arabic Land in paragraphs 7, 20, 27, river Ganges and India (and the presence of Greeks, Greek Kings and Greek coins issued by those Kings) in paragraphs 45, 47, 63, China ('Thina') in paragraphs 64-65, and in paragraph 30 an area where Arabs, Indians, and Greeks lived together. Herodotus mentioned India (Book 3, 89-97), Strabo (XV) and Megasthenes (in *Indika* II, 'Indian') referred to India and to China ('Seres') in a country with an aristocratical form of government having 5,000 councillors and people who lived for 200 years (often people at those time created rumours and myths for other people). This written evidence, even if it echoes rumours or presents in an excessive way other societies, proves that at least some people from Europe met some people from Asia, some people transacted and exchanged information about cultures, ideas, religions, rituals and philosophies.

The convergence of Greek and Indian philosophy, ethics and legal traditions resulted in a legal pluralism that reflected the multicultural nature of the Greco-Bactrian and Greco-Indian societies. The convergence of Greek and Indian philosophical and legal traditions in Greco-Bactrian and Greco-Indian societies further illustrates the dynamic exchange and synthesis of ideas, demonstrating the adaptability of legal systems to diverse cultural contexts.

This legal syncretism was not a unidirectional imposition but rather a dynamic process of mutual influence, showcasing the adaptability of both legal systems to each other.

The codification of laws and the establishment of legal institutions in Bactria (established by Diodotus I, 3rd cent. BCE) showcased a synthesis of Greek legal norms within the local administrative framework. The Greco-Indian Kingdoms, such as the Seleucid Empire and the Greco-Indian dynasties founded by the descendants of Seleucus I, witnessed the amalgamation of Greek legal concepts with existing Indian legal traditions.

The evidence from the historical record strongly suggests that the Greeks, through their presence in the Greco-Bactrian and Greco-Indian Kingdoms, played a significant role in shaping legal practices in ancient India. Greek philosophy and law also influenced other Asian nations of those times and Egyptians, too.

However, the influence of Greek philosophers was not one-sided.

Arabic thinking grew as an independent source for schools of thinking and subsequently influenced Europe, as George Saliba correctly suggests (17).

Another bridge of thought, rules and ethics has been Christianity starting from 33 AD. For example, the decision of St. Vladimir the Great to adopt in 988 Christianity in Russia had profound implications for the philosophical developments in Russia. Apart from trade, Christianity shaped the rules in the Roman and Byzantine Empires and in the Medieval Europe. Much later, Russian philosopher M. Lomonosov (Михайло Васи́льович Ломоно́сов) established rationalism in Russia's Enlightenment era in the 18th century (1711-1765) (18).

Other significant influence came from Roman schools of thought, Middle Eastern ancient philosophies by Egyptians, Phoenicians, Persians, Babylonians, and Jewish traditions rooted in the Bible (Old Testament and New Testament), which are also central to Christianity, but also from India which interacted with the West. This interaction is well-documented by H. Rawlinson (19). Additionally, later or in parallel times, philosophies from Indian, Chinese, Japanese, Korean and Vietnamese thinkers have also provided insights on balance and justice in various areas of interconnection and trade.

Significant regions in the evolution of cultures and the history of philosophy include the Far East, particularly China, as well as Bactria and India. These regions have not only influenced neighbouring cultures but have also been influenced by them. Greek philosophy is primarily linked with economic and political interactions between Greek and Middle Eastern cultures, encompassing Egyptians, Phoenicians, Jews,

Assyrians, Persians, and Babylonians. (20).

Greek philosophy also played a role in shaping the intellectual traditions of these areas, particularly in China, Bactria, and India through Greco-Buddhism.

India had its own important history of philosophy of law with Kautilya or Chanakya and Manu on dharma (dharma is the moral duty and righteousness guiding one's actions.).

In the Far East, China's philosophical foundation, long before the contact with the West, was shaped by the teachings of Confucius and Laozi (Laozi) since 5th century BCE.

Confucius' philosophy emphasised moral values, social harmony, and proper conduct, forming the basis of Confucianism (21)

Confucius philosophy influenced Japan, Korea and Vietnam parallel to Buddhism. The ancient and classical periods of Japanese philosophy span the years 604 (the traditional date of Shōtoku's *Seventeen-article Constitution*) to 1185 (the fall of aristocratic rule and the installation of the first military shogunate). In the usual Japanese reckoning, it covers the Late Kofun (or Asuka), Nara, and Heian periods. During that time Buddhism came to dominate the philosophical landscape by allocating the social and legal systems to Confucianism. Later, in the Meiji Period German idealism and Western values influenced Japanese philosophers. Officially the origin of Buddhism in Korea is traced back to the fourth century in the early Three Kingdoms Period when it was transmitted to Korea by a monk from Former Qin dynasty in China. Nevertheless, it is Wŏnhyo (元曉) (617–680) of Silla Kingdom (traditionally dated 57 BCE–935 AD), who is regarded as the first prominent and most seminal Buddhist thinker in the Korean Buddhist tradition. The Classical Confucianism of Pre-Qin and Han dynasties massively contributed to the Korean culture, society and literature but philosophically and politically it was Neo-Confucianism which arose much later in the medieval Song-Ming-Yuan dynasties that influenced Korea historically. However, the influence of Chinese philosophy, particularly

Buddhism and Confucianism still applies to China, Japan, Korea and partly to Vietnam (22).

Laozi's teachings, compiled in the *Tao Te Ching*, laid the groundwork for Taoism, emphasising natural harmony, simplicity, and the *Dao* (Way) (23)

Ban Gu (32-92), a Chinese historian, mentioned "Daqin" (大秦) in his work "Book of Han" (漢書, *Hànshū*). In this historical text, Ban Gu described Daqin as a distant western land, often identified with the Roman Empire. He provided information about its location, culture, and the trade relations between China and Daqin, emphasising the significance of the Silk Road in facilitating these interactions. Chinese coins were found in India and Chinese Silk parts were found in India, Syria and in Rome.

At the same period, in the West sources Pliny the Elder (23-79) refers to Seres (China) in his work "Naturalis Historia".

"Daqin" in Chinese meant "Great China," "Great Other China," or "Great Other Country of the Qin Dynasty." The Chinese believed that the Western regions, including Greece and Rome, were vast and significant, on par with the importance and size of China (24).

As for the Chinese word regarding the Hellenistic Kingdom of Seleucia Pulleyblank correctly states that "Tiaozhi is a good transcription of Seleucia" proving that Chinese people knew about the existence of the Hellenistic Kingdom and had trade relations of some kind (25).

Parthia of Persian origin was occupied by Greeks (Seleucid) and adopted elements of Greek culture, art and administrative practices. An embassy of Anxi (in Chinese, Parthia) came to Han, China bringing ostrich eggs and skilful conjurers (26).

According to Zhang Qian's (張騫) report, a Chinese delegate, in 125 BCE, travels to the West and returns to China and writes: "To the west of Anxi lies Tiaozhi" (meaning: "to the west of Parthia (today's part of Iraq, Iran) lies Seleucia" (27).

This means that Chinese had knowledge of the geography of the area (saying that it takes 100 days to travel from China to Seleucia which is logic for those times and implies that the trade route was peaceful) and got contact with Persians and Greeks (28).

Seleucia was west of Parthia. Seleucia was located in Mesopotamia, near the Tigris River, in what is now modern-day Iraq. It served as a major city and capital of the Seleucid Empire, which was founded by Seleucus I Nicator after the division of Alexander the Great's empire. Parthia, on the other hand, was situated to the east of the Seleucid Empire, in the region corresponding to parts of modern-day Iran, Iraq.

Chinese influence directly or indirectly impacted India, the Middle East, Greece, and Rome throughout history. Similarly, Indian influence extended to the Middle East, Greece, and Rome, while Rome's influence reached Greece, India, and China. Additionally, Greece influenced Rome, India, and China indirectly through its influence on Rome, Bactria and India (e.g. through Graeco-Buddhism and the Questions of Menander). And there is an indirect Greek philosophical minimum influence on Korean, Japanese, and Vietnamese cultures through Buddhism.

The "Questions of Menander" (Μενάνδρου αἰτήσεις) is a work attributed to the Greek philosopher Menander of Laodicea who mentions Bactrian King Menander as the person who discusses with a monk. The exact date of its composition is not precisely known, but Menander lived during the Hellenistic period, likely in the late 2nd century BCE to early 1st century BCE referring to laws of property and natural law (29)

As the Buddhist Monk Bhikkhu Pesala correctly notes: "It was the meeting of two great cultures, that of ancient Greece and the Buddhism of the Indus valley, which was a legacy of the great Emperor Asoka" mentioning also the Bactrian coin of 150 BCE depicting King Milinda or Menandros/Menander (30).

Asokan inscriptions have been found in the Kabul valley written in Greek and Aramaic, and elsewhere his inscriptions say that he had