# Law: Logical or praxeological? A systematic review of epistemic debate

## El derecho: ¿Lógico o praxeológico? Un debate epistémico de revisión sistemática

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**Abstract**

This article examines the question of whether law is a logical or praxeological system, a debate that has endured over time. The debate about the logical nature of law is long-standing and has experienced moments of great intensity. The objective of this study was to interpret philosophical criteria that clarify whether law responds to the order of reason or to cooperation between people. The methodology employed was basic, with a qualitative and exploratory approach, using the PRISMA method to review a total of 24 documents. The results indicate that the philosophical approach known as praxeology promotes, from within law, the dimensions of the human being through practice and its reflection on the environment. Thus, a significant debate remains about whether law is a rational, logical product or whether it arises from behavioral cooperation. In conclusion, it is recommended that this debate continue, as it is fundamental to fostering shared social responsibility as a strategy for articulating justice and society. The prevailing view until the 1950s and 1960s held that law was inclined toward a logical system, gradually evolving toward praxeology in the pursuit of adequate service of justice, an aspect that deserves to be openly questioned.

**Keywords**: justice, logic, praxeology, praxis, society.

## Resumen

Este artículo examina la cuestión de si el derecho es un sistema lógico o praxeológico, un debate que ha perdurado a lo largo del tiempo. El debate sobre la naturaleza lógica del derecho es de larga data y ha experimentado momentos de gran intensidad. El objetivo de este estudio fue interpretar los criterios filosóficos que aclaran si el derecho responde al orden de la razón o a la cooperación entre personas. La metodología empleada fue básica, con un enfoque cualitativo y exploratorio, utilizando el método PRISMA para revisar un total de 24 documentos. Los resultados indican que el enfoque filosófico conocido como praxeología promueve, desde el derecho, las dimensiones del ser humano a través de la práctica y su reflexión sobre el entorno. Por lo tanto, persiste un debate significativo sobre si el derecho es un producto racional y lógico o si surge de la cooperación conductual. En conclusión, se recomienda que este debate continúe, ya que es fundamental para fomentar la responsabilidad social compartida como estrategia para articular la justicia y la sociedad. La visión predominante hasta las décadas de 1950 y 1960 sostenía que el derecho se inclinaba hacia un sistema lógico, evolucionando gradualmente hacia la praxeología en la búsqueda de un servicio adecuado de justicia, aspecto que merece ser cuestionado abiertamente.

**Palabras clave**: justicia, lógica, praxeología, praxis, sociedad.

## Introduction

There is a philosophical debate about whether law is a logical or praxeological system. Some viewpoints maintain that law does not respond to the ordering of reason, but rather to the criteria of interpersonal conduct; that is, it is not rational but praxeological (Juliao, 2002). However, Hans Kelsen (1962) argues in his philosophical work on the general theory of norms that law is a logical system. This view is reinforced in The Pure Theory of Law, based on the principles of non-contradiction and inference derived from classical Aristotelian logic (Ghersi, 2012). Within this framework, the logical coherence of law is guaranteed, allowing the particular to be deduced from the general. This approach establishes that particular norms prevail over general ones, consolidating the vision of law as a rational and logical product. However, Enrique Ghersi argues that law is not a logical system, but a praxeological one, since it arises from cooperation between people and not from pure reason (Ghersi, 2012). This perspective emphasizes that law is the result of human action and evolves with social institutions.

Taking this into account, the research is justified by the need for a clear interpretation of reality before applying the law, so that it is coherent and not only expressly subordinated to the text of the law, but also to the context of praxis in human behavior. Therefore, the objective of this research will be to interpret philosophical criteria that will allow us to elucidate whether law responds to the order of reason or to the order of cooperation between people, that is, whether it responds to a logical or a praxeological system.

## Development

In this exploratory review, it is worth highlighting that the logical philosopher Bentham (1965, cited by Rivera-Sotelo, 2011) defended the idea that law is inductive through the reiteration of cases that comprise jurisprudence. He maintained the idea that law is a formation of human reason and that it is strictly rational, governed by logical rules; hence the inductivist idea of law in the 19th century.

In contrast to the logical view of law, Werner Goldschmidt (1972) argued that law is not a product of logical thought, but rather an act of will. Although he maintained that law is its own source, his critique of the logicality of law contrasts with Hans Kelsen's position. In his critical analysis, Kelsen posed questions such as: Does a murderer deserve the death penalty? Is this punishment logical? These questions reflect the persuasive intensity of his critique of the idea that law is inherently logical.

In this sense, Kelsen deduced that law is neither logical nor illogical, because it is neither true nor false. In this context, logic exists to determine the truth or falsity of a given statement. Statements exist; they can be true or false.

Based on this debate, Kelsen argues that law is not a logical product, but rather a deliberate product, a product of the will of societies. This debate presents a confrontation between Ulrich and Klug, who defend logic, based on a guarantee of logic in law, while Kelsen argues that law has nothing to do with reason; for him, it is political reason, not logic, that creates law (Ghersi, 2012).

On the other hand, the Argentine philosophers Carlos Alchourrón and Eugenio Bulygin, along with the Mexican Ernesto Garzón Valdés, have developed highly relevant philosophical contributions based on the logical

nature of law. Furthermore, Robert Alexy and the doctrine of human rights have fostered a resurgence of natural law ideas, which hold that law is not only rational and logical, but also moral, with an inherent moral content, as argued by Guastini and others.

The works of Alchourrón and Bulygin introduce a sophisticated element into the debate by distinguishing between judicial reasoning, which must be logical, and the content and origin of legal norms. It is important to differentiate between the content of law and the process of judicial reasoning. This discussion has also involved Kelsen, who has been criticized by Hayek as an enemy of liberal ideas, arguing that the Kelsenian view of law as the sole source of law is contrary to liberty (Hayek, 1945). However, Von-Mises, a close friend of Kelsen, defended his position (Scarano, 2004).

On the other hand, the debate also considers the idea that law is praxeological, that is, an unforeseen product of social cooperation, rather than a logical system derived from reason. According to this perspective, law emerges from human praxis and reflects cooperation between people. As the mechanisms of cooperation change, cooperative strategies and legal institutions also evolve (Von-Mises, 2011).

Praxeology, as defined by Mario Bunge (1998), is a discipline that analyzes human actions based on the formal structure of the description of the action itself, examining its logical structure a priori. This discipline focuses on the sciences of praxis, that is, on human action, as developed by Ludwig von Mises (2012). However, praxeology faces challenges when attempting to determine efficiency according to criteria such as Pareto and Kaldor-Hicks, since the necessary information is practical, tacit, and subjective, and resides in the minds of millions of users of the legal system, making it inaccessible in many cases (Posner, 2007).

Friedrich Hayek and Ludwig von Mises emphasize the importance of recognizing that the empirical information necessary to construct economic theories is already available, but the problem lies in how to distinguish between the different types of existing knowledge (Hayek, 1945). This raises questions about the methodology of economic science and its application to the economic analysis of law.

On the one hand, there is scientific knowledge, which, while it occupies a prominent place in the collective imagination, is not the only existing knowledge. It is a type of rational, organized, and, above all, accessible knowledge. On the other hand, there is practical knowledge, dispersed in the human mind and which we apply, even without realizing it, in a given space and time. It is subjective knowledge, since it belongs to each individual and, most importantly, it cannot be transmitted except through the process of corporate discovery that depends on market dynamics (Hayek, 1945).

Along the same lines, Kirzner (2012, cited by Kirat, 2012) mentions that every time a human being performs an action, they seek to achieve a specific end. This process has logical implications: the individual, among the few means at their disposal, selects one or more that they believe will allow them to achieve their goal (Kirat, 2012).

Therefore, praxeology's interest lies not only in the ends of the action, but in the action itself, regardless of the circumstances. This means that it seeks means, not ends, which is very peculiar to law, which focuses on means, not outcomes. In this sense, praxeology focuses on the individual who acts. From this observation, it generates principles and axioms that allow it to develop an analysis of the action process.

It follows that praxeology is associated with the Austrian School as a movement of economic thought based on methodological individualism. For the Austrian School, social and economic phenomena are the result of the actions and motivations of individuals.

Praxeology was first applied by Von-Mises (2011), who was convinced that people perform conscious actions to achieve specific goals. For Von-Mises, human behavior has a valuable purpose, which is achieved by resorting to certain means. By extension, if consumers act in accordance with their values, the sum of the value scales of all individuals would be equivalent to the economy's supply and demand (Swain and Rogerson, 2021).

Furthermore, the Administration of Justice constitutes one of the most relevant institutions in a society. Therefore, the State, through its institutions —such as the Administration of Justice— has the duty to develop pro-justiciable strategies, with social responsibility being a strategy for sustainable development, horizontal governance, and the protection of fundamental rights (Rojas, 2015).

Social responsibility encompasses a set of philosophical principles that govern human activity and is defined as the set of practices and attitudes of public and private actors that seek to contribute to the common good (Macedo et al., 2022). In this sense, it is necessary to identify stakeholders to develop political advocacy strategies, which will allow society to have a positive perception of justice (Moscoso et al., 2020).

Bobbio (2020) considers that the social responsibility of the State includes the protection and promotion of human rights and social justice (p. 52), so the State has the duty to guarantee the fundamental rights of

individuals. Therefore, the administration of justice must be framed within this line of argument. Drucker, cited by Chugá et al. (2020), considers that social responsibility directs contributions to society from within its environment.

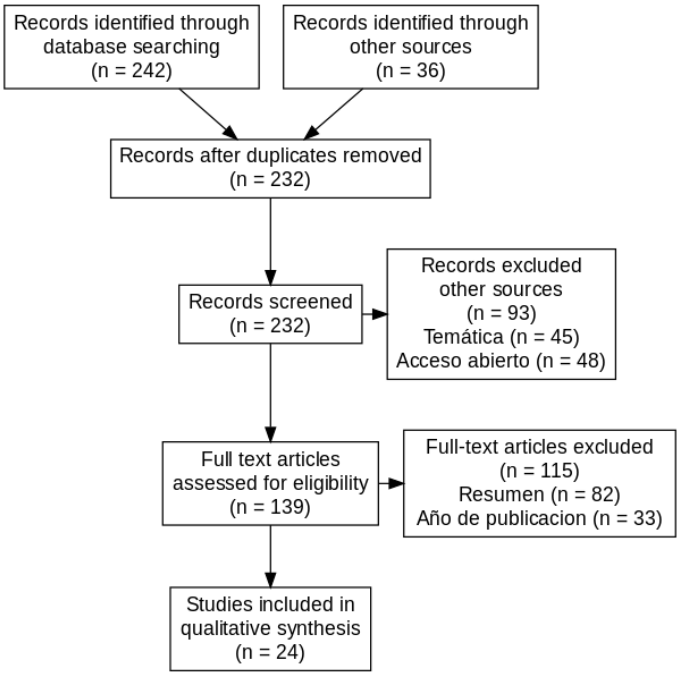
## Methodology

This analysis was developed using the PRISMA (Preferred Reporting Items for Systematic Reviews and Meta-Analyses) method to ensure a systematic and transparent process in the selection and analysis of documents related to the epistemological debate on whether law is a logical or praxeological system. The steps of the methodological process are described below.

In the identification phase, a comprehensive search was conducted in academic databases such as Scopus, Google Scholar, and other relevant sources. Key terms such as "logic," "praxeology," "praxis," "discussion," and "reflection" were used. The search was limited to documents published in Spanish and English, prioritizing those that explicitly addressed the logical or praxeological nature of law. The initial result was 278 potentially relevant documents.

Subsequently, in the selection phase, inclusion and exclusion criteria were applied to ensure the relevance of the selected documents. Indexed academic publications, qualitative or philosophical studies related to the topic, and documents available in full text were included. Conversely, irrelevant documents, duplicate publications, and those without full-text access were excluded. After this filtering process, 254 documents were discarded, leaving a total of 24 studies for detailed analysis.

**Figure 1**
*PRISMA flow diagrams*




In the data extraction phase, key aspects of each selected document were compiled and organized. The extracted data included the author(s) and year of publication, the objective of the study, the methodology used, and the main results and conclusions. This information was structured in a matrix to facilitate comparative analysis.

Finally, in the quality assessment phase, a checklist based on the principles of the PRISMA method was used. Aspects such as the clarity of the study's objectives, methodological rigor (especially in qualitative and philosophical approaches), and the relevance of the results to the logical-praxeological debate on law were considered.

This methodological approach ensured the validity and reliability of the analysis, providing a solid basis for the debate on the epistemological nature of law.

## Results and discussion

Based on a praxeological analysis of law, it is understood that law acts as an incentive structure that generates changes in legal phenomena, sharing similar properties with its economic counterparts (Sima, 2004). This facilitates the application of economic tools to the study of the legal system. However, dynamic analysis seeks to overcome this approach. Rather than applying methods from one science to another, its objective is to find a common method for praxeological sciences, which implies a deeper integration of disciplines (Schunk and Zimmerman, 2003).

In this sense, the emergence of a dynamic type of legal analysis, or, in other words, a praxeological analysis of law, aims to completely dismiss the (unfounded, but understandable) doubts about the subservience of law to economics (Tardieu, 2005). However, the development of a praxeological theory of law is still incipient (Sechrest, 2004), as it has not yet overcome the positive law-natural law dualism. In this sense, it is appropriate to adopt the methodology of the sciences of social complexity: the praxeological, a priori-deductive method, and, secondly, to link this theory to reality (Calsamiglia, 1987).

To understand how legal institutions interact with citizens, it is crucial to evaluate their effectiveness in practice. This involves analyzing whether they achieve their ends, whether they apply utilitarianism, or whether they simply persist as failures (Mackaay, 2010). Praxeology, as a discipline, focuses on human action understood as praxis, which entails a metacognitive process that goes deeper than mere physical movement. An action must be intentional to be considered as such; sensations and impressions, although not actions in themselves, can lead to behaviors that precede intentional action.

In this context, praxeology distinguishes between intentional matter and intentional essence. Intentional matter refers to the action performed with intention, while intentional essence relates to the objects that support the action but do not have action in themselves (Husserl, 1962).

In other words, praxis is a meticulously thought-out action, based on the individual's prior reflection and analysis, unlike practice, which is a habit regularly performed in daily life and without reflective effort (Juliao, 2014).

In this sense, the praxeological approach seeks to generate autonomy and critical thinking, based on the theory of Self-Regulated Learning (SRL) proposed by Barry Zimmerman (1989), which consists of a process of controlling thoughts, emotions, actions, and motivations to achieve objectives or goals based on learning experiences and expectations through planning, execution, and self-reflection. In other words, human beings are formed by what they do, and the reflection they gain from that action is the architect of their development. The basic mental elements intervene in action: thought, will, and judgment (Sechrest, 2004).

Thought allows us to understand the context and modify the natural order of things; will allows us to overcome limitations and give meaning to the world; therefore, judgment allows us to make a decision regarding a particular action (Juliao, 2011). Of course, this praxeological phenomenon must be based on four principles for its proper development: seeing, judging, acting, and creatively responding. The first stage (seeing) consists of observing the context and the actors involved in that space in a structured and systematic way (Zanotti, 2004). It is important to be critical of the observation method used in order to answer the basic questions of any research process: what, when, how, why, where (Rojas Tudela, 2015).

The observer analyzes the practice in its real and natural process to enter the second stage (judging). This aims to critically understand and interpret what is seen, relate the situation, and hypothesize what is perceived. This discernment is carried out to reorder how to respond and act in a coherent and adaptive manner. The third stage (acting) refers to an intervention based on what is observed; decisions are made and plans are made regarding how to engage in the context strategically and efficiently, as well as what type of social tools should be used based on the discernment previously carried out (Zak et al., 2007). For the last stage, known as creative feedback, the action taken is reflected upon and analyzed with the response given in the real environment, and syntheses are formulated in which the actors, the environment, and the set of practices presented are simultaneously present (Winne, 1996). This stage is prospective and responds to what has been learned from the praxis previously carried out; an awareness of performance is created, and these projections are oriented toward a utopia that will remain in reality and will be evaluated to modify the context with a positive social impact (Vygotsky, 2009). The ultimate foundation of the categories of human action (praxeology) lies in the need to generate stable and lasting knowledge from certain impressions engraved in the human mind and intuitively revealed as self-evident truths (Von-Mises, 2012).

Von Mises (2012, p. 25) points out that human nature, as it presents itself in this era of cosmic change, has not existed from the beginning nor will it be eternal. However, Mises maintains that the logical and praxeological structure of the human mind is immutable. From an etymological point of view, the term praxis comes

from the Greek and translates as "transaction" or "action," derived from the verb prassein, which means "to carry out" or "to do."

Etymologically, “logy" is a suffix associated with logos, which means word, treatise. Praxeology is, therefore, the science that studies human action from the perspective of the formal implications of the description of the concept of action. It is the formal analysis of human action in all its aspects (Smith, 1999). Thus, praxeology is based on the fundamental axiom that human beings act, that is, they aspire to achieve certain ends that they have discovered are important to them. The praxeological method revolves around the verbal deduction of the logical implications of the fact that human beings act, that is, they choose a set of scarce means to achieve their ends (Chapman, 1953).

Based on a critical analysis of logic and praxeology in law, a dichotomy is proposed between logic (understood as a rational and formal system) and praxeology (the study of human action and its practical consequences). This debate is not sufficiently developed in the legal literature, especially regarding the influence of these perspectives on the creation and interpretation of norms.

Therefore, the knowledge gaps identified are: Lack of consensus on whether law should prioritize internal logical coherence or practical effectiveness (praxeology) in its application.

There is little research on how these two perspectives can complement each other in legal theory and practice. In this regard, Atienza (2013, p. 45) notes that "legal logic has traditionally been considered the foundation of the coherence of the legal system, but praxeology introduces a practical dimension that questions the rigidity of this approach".

Starting from an epistemic debate in legal research, research suggests an epistemological approach, that is, how legal knowledge is constructed. However, it is not clear how the logical and praxeological perspectives are integrated into this process. On the other hand, how legal epistemology can incorporate both logic and praxeology has not been sufficiently explored. Likewise, there is a lack of studies analyzing how judges, legislators, and academics balance these approaches in their professional jurisdictional practice. Nino (2003, p. 78) confirms this by stating that "legal epistemology must overcome the dualism between theory and practice to offer a comprehensive understanding of law".

From the perspective of Social Responsibility and Just Law, the knowledge gaps identified are: the absence of theoretical frameworks linking social responsibility with the creation of "just law." There is also a lack of clarity about how social responsibility can be operationalized in specific legal norms. Dworkin (1986, p. 112) states that "social responsibility in the legal field requires a normative framework that transcends mere rhetoric and translates into effective actions".

Finally, based on the articulation between justice and society, knowledge gaps are identified due to the lack of theoretical models that explain how law can bridge the gap between abstract justice and the concrete needs of society. Furthermore, there is little empirical research on how legal norms impact the perception of justice in different social contexts. Rawls (1971, p. 15) confirms this when he states: "Justice cannot be understood solely as an abstract concept; it must be analyzed in relation to the social realities it seeks to regulate".

## Conclusions

In the epistemic debate, from Hans Kelsen, Mises, Ulrich Klug, Eugen Ehrlich, Carlos Alchourron, Eugenio Bulygin, and Friedrich Hayek, the prevailing tendency is that law is praxeological, corroborated by Cossio (1952) with the egological theory of law, whose school constitutes to this day the most important body of non-philosophical doctrines, in the sense that no other school of thought understands non-philosophical legal problems and teachings with such depth.

Kelsen argued that science must describe its object as it really is, and not prescribe how it should or should not be from the perspective of certain estimative judgments, where the legal nature of the legal system does not derive from norms, but, conversely, it is the legal nature of norms that derives from the legal system (Goldschmidt, 1972). Drawing on the social theory developed by Eugen Ehrlich and the Vienna School, critical research epistemology focuses on social action and how the knowledge generated is reused in practice.

Therefore, based on the theory of the neutrality of knowledge, praxeology challenges the idea that knowledge is neutral and objective, as part of Popper's falsification of knowledge, and argues that all knowledge is situated in a specific social and historical context and is shaped by existing power relations and social practices; therefore, the qualitative approach cannot be considered subjective.

Furthermore, praxeology recognizes that knowledge is constructed intersubjectively, through the interaction between different social actors. It emphasizes the importance of dialogue, collaboration, and critique for the production of knowledge, seeking not only to understand social reality but also to transform it. Social

responsibility is an important strategy for promoting the articulation between justice and society, hand in hand with law, logic, and, preferably, praxeology, based on transparency, accessibility, efficiency, and sustainability, in pursuit of equitable and efficient justice.

Knowledge is considered a tool for social action and for building a more just and equitable society. Therefore, as an input for legal research, praxeology can be used to guide research in various ways: from the selection of research topics to the identification of relevant social problems requiring investigation. Regarding the design of research methodologies: praxeology promotes participatory methodologies that involve social actors in the research process. Regarding data analysis: praxeology provides a framework for analyzing research data from a critical and contextualized perspective. Regarding the communication of results: praxeology emphasizes the importance of communicating research results in an accessible manner. Hence the influence of great philosophers such as Eugen Ehrlich: Foundations of the Sociology of Law; Alfred Schutz: The Problem of the Social Relevance of Knowledge; Jürgen Habermas: Theory of Communicative Action; Paulo Freire: Pedagogy of the Oppressed; Sandra Harding: Standpoint Theory.

Therefore, law leans toward praxeology because, by applying it to research, we can produce more relevant, fair, and transformative knowledge by constructing valuable tools that challenge the neutrality of knowledge, seeking better contributions.

Finally, to identify normative gaps and legal and philosophical knowledge, a good legal researcher must break down key concepts, analyze their interrelationship, and assess the gaps in the literature and current regulations, as described in the discussion, considering the absence of epistemological frameworks that overcome the dualism between theory and practice; the need to clarify how social responsibility can be translated into concrete legal norms; and the lack of models that effectively articulate abstract justice with social demands. These gaps represent opportunities for future research that delves deeper into the interrelationship between logic, praxeology, social responsibility, and justice in the legal field.

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