

Article

Understanding John Austin's Legal Positivism Theory and Hans Kelsen's Pure Legal Theory: An Introduction for Beginners

Ahmad Fanani¹ and Muhammad Sulthon Zulkarnain²

¹ Sultan Omar 'Ali Saifuddien Centre for Islam Studies (SOASCIS),
Universiti Brunei Darussalam, Brunei Darussalam ; email : 19h0576@
ubd.edu.bn

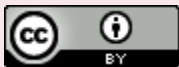
² Pojok Peradaban Institute, Malang, Indonesia; email : sultonzul12@
gmail.com

PERADABAN JOURNAL OF
LAW AND SOCIETY
Vol. 1, Issue 2, December 2022

ISSN 2830-1757

Page : 107-118

[http://jurnal.
peradabanpublishing.com/
index.php/PJLS/article/
view/41](http://jurnal.peradabanpublishing.com/index.php/PJLS/article/view/41)



This work is licensed under a
[Creative Commons Attribution
4.0 International License](https://creativecommons.org/licenses/by/4.0/)

Abstract

John Austin and Hans Kelsen are widely recognized as influential legal experts. Their theories and thoughts about law are still a reference for jurists around the world. John Austin's Legal Positivism Theory offers a scientific and measurable legal paradigm when most existing legal products do not have certainty and are not measurable with certainty. Meanwhile, Hans Kelsen's Pure Law theory was also born as a form of response to various legal products at that time which could not be separated from various social, political, and cultural interests. So that law as a product of the state does not have authoritative legal certainty. The thoughts of both have sparked various responses and many among legal experts around the world. Therefore this article will further explore the two thoughts of these two figures in the hope of helping to show that Pure Law Theory and positive law theory are still relevant to contemporary legal theory.

Keyword

Legal Positivism Theory, John Austin, Pure Legal Theory, Hans Kelsen

INTRODUCTION

John Austin and Hans Kelsen are widely known as influential legal experts. Their theories and thoughts about law are still being referred to by legal experts around the world (Vinx, 2013). John Austin was a renowned English jurist who published extensively on legal philosophy and jurisprudence. His publications had a major influence on British jurisprudence. John Austin is best known for his efforts to develop a theory of legal positivism. He tried to separate moral rules from the law which later became widely known as “positive law” (Huijbers, 1991, p. 41). The theory has been under relentless attack, but this theory is still relevant today, especially concerning central and permanent questions about the underlying relationship between law and political power (Latipulhayat, 2016).

Meanwhile, Hans Kelsen is famous for his formulation of “pure legal theory”. Kelsen departs from the traditional idea of separation of powers, constitutional concepts, and the rule of law to build a pure legal theory that is free from elements outside the science of law (such as morality, politics, and religion). Hans Kelsen is of the view that law must be positioned and implemented objectively. Law must be separated from the influence of human subjectivity. Because according to Kelsen, the law has its logic. The law that Kelsen meant is a positive law that has its specific characteristics. So Hans Kelsen refused if the law was considered as part of justice, for example placing law as a branch of justice, so that law must be formulated under justice. So the law must be maintained its purity (Asshddigie & Safa’at, 2012).

These two legal ideas, both directly and indirectly, have influenced the development of law in various countries, including Indonesia. This relates to the legal principles that form the basis for the formation of law. The legal principle is the soul of legal regulations because legal principle is the basis for the birth of legal regulations (Rahardjo, 1986, p. 85). John Austin’s thoughts are in many ways a legal principle that determines the direction of legal policy in various countries. Therefore this article will further explore the two thoughts of these two figures and may help to show that Pure Law Theory and positive legal theory are still relevant to contemporary legal theory.

WHO ARE AUSTIN AND KELSEN : A BRIEF BIOGRAPHY

John Austin was born in Creating, Suffolk, England on March 3, 1790. He was born to Jonathan and Anne Austin. John Austin’s childhood began in the long nineteenth century and occurred in the social condition of European society which was experiencing severe shocks that penetrated to the point of its foundation. At the same time, the French Revolution took place which resulted in the collapse of the strongholds of absolutism on the European continent (Latipulhayat, 2016).

John Austin began pursuing legal studies in 1812. He pursued these studies after five years of military service and during a period of seven years as a practicing lawyer, admitting that he was not very successful. Because John Austin was more interested in the study of legal theory, especially as a legal practitioner, John Austin only completed a few cases, so he decided to leave the world of legal practice in 1825.

Austin later married Sarah Taylor in 1820, a beautiful, energetic, and intelligent woman. It was Sarah Taylor who ultimately became John Austin's partner and witness to the journey of life. Sarah also often serves as a source of inspiration for John Austin's works. This marriage made John Austin decide to return to the circle of famous intellectuals in London, namely James Mill and John Stuart Mill, who specifically brought him into Bentham's circle of utilitarianism.

This is also what finally made Austin have a special impression and attention to Bentham, a person who has a representative character of conservative and authoritarian utilitarianism. Nevertheless, Austin did not become a blind follower of Bentham and even often criticized Bentham's ideas (Latipulhayat, 2016).

In 1826 University College London was founded. John Austin was appointed as the university's first professor of law and international law. John Austin then studied Roman Law and Modern Civil Law in Germany for two years. He was greatly influenced by Prof.'s thoughts. Thibaut, a German jurist who is known as a philosophical school figure maintains a natural law mindset with a spirit of moderate nationalism.

But unfortunately, his arrival to Germany was considered premature, because the heated debate between the schools of philosophy and the schools of history pioneered by Savigny had just begun. Had he come later, John Austin could have used the compromises of the debate in developing his thinking. If Austin were more compatible with Savigny's way of thinking, his ideas would likely be more widely accepted, because the views of the historical school seem to be closer to the philosophy and mindset of British society regarding the law.

The process of teaching John Austin's lectures in 1828 has been followed by many figures. It was recorded that several well-known legal scientists visited Austin's lecture halls, such as John Stuart, Sir George Cornewall Lewis, and Sir Samuel Romilly who were known as Bentham's "inner circle". However, John Austin was less able to attract interest in lectures for his students. This was the reason for Austin's retirement in 1832, even in 1834 Austin stopped giving lectures on law. Even though Austin was considered to be less successful as a lecturer in law, his lecture teaching materials have become an important reference in the development of law in England. This teaching material was recorded and became Austin's important work, *The Province of Jurisprudence*

Determined, which was published in 1932 (Dicey, 2007).

After quitting as a lecturer, John Austin chose to become a member of the Criminal Law Reform Commission in 1833, but he felt that his opinion lacked support. Because of this, in 1836 he decided to quit after signing the first of the reports he made. In the same year, John Austin was appointed Commissioner for Malta Affairs. Until the end of his life, John Austin spent time outside England, namely in Paris until 1848. Then he returned to England and lived in Surrey until he died in 1859.

Around 22 years after Austin's death, another legal philosopher was born. He is Hans Kelsen. Hans Kelsen was born to a middle-class Jewish couple on October 11, 1881, in Prague, Germany. When Hans Kelsen was three years old, he and his family moved to Vienna. It was there that Kelsen completed his education. Kelsen is known as an agnostic (not knowing God), but for the sake of academic success and to avoid problems in his career he chose to convert to Judaism. But his identity as a descendant of Judaism actually causes problems in his life (Asshddigie & Safa'at, 2012, p. 1).

Hans Kelsen is known as a public lawyer with secular views. This view is believed to be an instrument to create peace. This view was inspired by the tolerance policies of the Dual Monarchy regime in the Habsburgs. Since childhood, Hans Kelsen was more interested in classical science and humanism, such as philosophy, literature, logic, and mathematics. This interest in knowledge ultimately influenced Hans Kelsen's thinking in the field of law.

In 1905 Hans Kelsen published his first book entitled *Die Staatslehre des Dante Alighiere*. One year later, Kelsen brilliantly obtained a doctorate in law. In 1908 Kelsen attended a seminar in Heidelberg organized by George Jellinek. In 1911 Kelsen taught at the University of Vienna in public law and legal philosophy and completed the work *Hauptproplime der Staatsrechtlehre*. Then in 1914, Kelsen became publisher and editor of *The Austrian Journal of Public Law* (Asshddigie & Safa'at, 2012, p. 2).

During the first world war, Hans Kelsen was trusted as an adviser to the Military and Legal Departments. In 1918 Kelsen became an associate professor in law at the University of Vienna and became a full professor in state administrative law in 1919. In the same year, Hans Kelsen was entrusted with drafting the first Austrian constitution in 1919. Over time he entered in 1930 anti-semitic movement was born among Christian socialists, which resulted in Hans Kelsen being dismissed from the Austrian Constitutional Court. Status as a Jew made things even more difficult for Kelsen. To avoid this anti-semitic movement, Kelsen even had to move to Cologne to continue his career.

In Cologne, Kelsen became a lecturer in International Law at the University of Cologne and pursued a special field of positive international law.

In 1931 he published his *Wer soll der Hüter des Verfassungs*. Kelsen and his family did not stay in the city for long. after passing two years Kelsen with his wife and two daughters then moved to Geneva in 1933. In that city, Kelsen began his academic career at the *Institute Universitaire des Hautes Etudes International* until 1935. Apart from that, Kelsen also taught international law at the University of Prague in 1936. But then he had to leave because anti-Semitic sentiment developed among his students.

The events of the outbreak of the second world war forced Hans Kelsen to leave Europe and head to America. In America, Hans Kelsen received support from the famous American legal theorist, namely Roscoe Pound. Then in 1942, with the support of Roscoe Pound who recognized Kelsen as a world law expert, Kelsen became a visiting professor at California University, Berkeley. Hans Kelsen finally lived in the United States until the end of his life and published many books there, until 1973. Kelsen died in Berkeley, on April 19, 1973, at the age of 92 leaving around 400 of his works.

UNDERSTANDING LEGAL POSITIVISM TRADITION AND PURE LEGAL THEORY

Legal Positivism Tradition

Legal Positivism is a compound sentence consisting of two syllables, namely Legal and positive. The word "legal" in the Cambridge Dictionary is an adjective that denotes the meaning of the law (Cambridge, n.d.). Meanwhile, Positivism is a belief that knowledge comes from things that can be experienced with the senses or proved by logic, which means that belief in knowledge comes from things that can be experienced with the senses or proven by logic (cambridge, n.d.). Meanwhile, according to West's Encyclopedia of American Law defines Legal Positivism as:

"A school of Jurisprudence whose advocates believe that the only legitimate sources of law are those written rules, regulations, and principles that have been expressly enacted, adopted, or recognized by a governmental entity or political institution, including administrative, executive, legislative, and judicial bodies (West's Encyclopedia of American Law, 2008)"

One way to understand legal positivism is to understand how positivists answer the question: "What is law?" The word "positivism" itself comes from the Latin root, namely "positus", which means placing, giving evidence, or emphasizing the existence of something. Legal positivism seeks to define law by explicitly affixing its meaning to written decisions made by government agencies that are empowered by law to regulate certain areas of society and human behavior. So according to legal positivists, what is called law is a principle, rule,

regulation, decision, assessment, or another form of law that is recognized by an authorized government agency or official. On the other hand, if a norm of behavior is promulgated by anyone or anything other than a government agency or official, the norm is not law. It doesn't matter how many people follow those rules or norms, or how many people legitimize them.

Legal positivism is often contrasted with "natural law". According to adherents of the natural law school, all written laws must be made according to universal principles of morality, religion, and justice, so unjust laws cannot be called "laws". Legal positivists generally acknowledge the existence and influence of non-legal norms as a source from which to consult in evaluating human behavior, but they argue that these norms are only aspirational in nature, since people who contravene these norms do not directly suffer adverse consequences. for doing it. In contrast, positivists stress that legal norms are binding and can be enforced by government forces, so individuals who break the law can face serious consequences including fines, imprisonment, loss of property, or even death (Ali, 2009, p. 55).

Legal positivism rests on two values. First, all laws must be written down. This is meant to ensure that all members of society will be explicitly informed of their rights and obligations. In a positivist legal system, society should not be unjustly burdened by unwritten legal obligations (West's Encyclopedia of American Law, 2008).

Second, legal positivism serves to avoid judicial discretion (deviation from the law). In some cases, judges are not satisfied with the outcome of a case determined by a narrow reading of existing laws, and they may be tempted to achieve a more fair and just outcome. However, legal positivism requires judges to decide cases according to law, namely laws or other written regulations. The judge's personal preference must be put aside. Positivists believe that legal integrity is maintained through a neutral and objective judiciary that is not guided by subjective notions of right and wrong.

The rigid, autonomous and separate nature of legal positivism has received much criticism. In the opinion of some critics of positivism, the enactment of laws by political institutions does not mean that society must accept all of these laws as valid and binding regulations. For example, the slave laws enacted by the American government during the Civil War were clearly written regulations, but systematically deprived African-Americans (blacks) of freedom and human dignity. Nor was it in the code of law that the German Nazi regime brutally disarmed the Jews. Legal positivism, say these critics, sometimes castrates the social function of law by preventing it from serving human needs. Thus, these critics conclude that written law is no longer valid when separated from the principles of fairness, justice, and morality (West's Encyclopedia of

American Law, 2008).

The legal positivism legal tradition has several core contents of knowledge in it, including (Samekto, 2012, p. 80):

1. Positivism holds that it is only based on facts (reality facts) and has previous evidence.
2. Positivism will not be metaphysical and does not explain the essence.
3. Positivism no longer explains natural phenomena as abstract ideas. This is because natural phenomena are explained based on causal relationships and then used as a legal basis that is independent of space and time.
4. Positivism places phenomena as objects that can be generalized so that the future can be predicted (predicted).
5. Positivism believes that reality can be used as related elements in observable systems.

Pure Legal Tradition

The Pure Theory of Law is a theory of positive law but not the positive law of a particular legal system but a theory of pure law (general legal theory). As a theory whose main goal is knowledge of the subject, namely answering the question of what law is and how the law is made. Or the question of what law should be and how it should be made (Kelsen, 2005, pp. 17–23). So that law should be separated from justice so that it can be called positive law and will become the true purity of law. Pure law is legal science and not legal policy (Kelsen, 2012, p. 127).

Pure legal theory gathers explanations, that law is a necessity that regulates human behavior as rational beings, in short, that it is not how the law should be, but what the law is. So should be clean of analyzes other than law (non-judicial) such as sociological, political, historical, and ethical. Because the law deals with the form (form) and not the content (legal content) the content of justice as the content of the law remains outside the law. This is because the contents of the law can be unfair, but the law is still the law because it has been issued by the authorities. This is strengthened, that positive law can become something that is no longer effective because the interests of the regulated community no longer exist, so the authorities should not force its implementation.

UNDERSTAND THE PRINCIPLES OF JOHN AUSTIN'S LEGAL POSITIVISM THEORY

John Austin is known as one of the figures of legal positivism. Legal positivism can be interpreted that the doctrine of human knowledge being limited by something that can be observed. Positivism departs from an empirical interpretation which assumes that everything must be observed and based on

experience (Tebbit, 2017, p. 15). Thus, positivism can be interpreted as provisions relating to everything real, certain, clear, or contrary to something imaginary, or metaphysical, and cannot be proven empirically (Dwi Putro, 2012, p. 52).

The theory of legal positivism is not free from controversy, however, this provision is always associated with the development of legal thought in England and refers to two well-known figures in that country, namely Jeremy Bentham and John Austin so that both of them are widely known as pioneers and figures of classical legal positivism (Wacks, 2017, p. 138). As a school of legal thought, legal positivism uses a legal theory approach, namely (posited law), namely established law, meaning that law must be made by law-making institutions such as parliament and courts. Legal positivism emphasizes that law is made and determined (positum) so that law must be separated from morals and ideas that give value to human activity.

John Austin is a figure of legal positivism who has a high belief in distinguishing between the existence and substance of law on the one hand and moral values, merit, and inappropriateness (demerit) of legal substance on the other. Positivism is not concerned with the good or bad value of the substance of the law. Instead, it emphasizes the necessity that laws must be made by law-making institutions, specifically a state. Through his book entitled *The Province Of Jurisprudence Determined*, which was published in 1831, in this book he explained that law is a command of the sovereign and revealed that law is a command of the lawgiver. So that the true law is the product of an independent sovereign. Meanwhile, according to him, orders are the keywords of the meaning and essence of the law. So that the law is considered true is nothing else because of the order itself (Austin, 1995, p. 10).

It is through recording that John Austin's legal theory is often referred to as the "command theory of law" whose basic idea refers to the characteristics of law according to Bentham. Thus John Austin wanted to seek and find legal foundations with something real and finally, he assumed that an order is an answer. An order is interpreted as something that is implemented and intentional, which comes from someone who is then shown to the other party to act on the order. John Austin thinks that an order is (a desire) but it is different from a will in general because what distinguishes it not from the type of will. But the power possessed and the purpose of the party issuing the order is to give sanctions if the order is not carried out. Then the order creates an obligation so that the neglected obligation has a punishing penalty. he asked (Leiboff & Thomas, 2004, p. 152).

Thus, Austin does not consider all forms of orders to be law. Because an order that can become a creation of law is an order that is produced or issued by a party or institution that has authority, for example; a king, queen, or parliament.

The institution that has this authority is referred to as the "sovereign".

John Austin's concept of the sovereign is very different from Bentham who tends to recognize the limitable and also the division of the supremacy of the sovereign. According to Bentham, legal restrictions can be imposed on (the sovereign), namely through the doctrine of judicial review. While the idea (sovereign) conveyed by John Austin tends to be adapted from a rigid criminal law model, Bentham puts it in a more rational reconstruction. Because John Austin's ideas were more influenced by the established British monarchy system. Moreover, the British Parliament did not only set laws for England but for all of its colonies. So that John Austin thinks that sovereign is something unlimited and undivided (Huijbers, 1991, p. 41).

On this basis, in terms of John Austin's terminology, he understands that the law made by the highest authority by itself must be accepted as an applicable law that requires obedience to all people and will reach anyone without exception. It was through this that John Austin's theory of legal positivism introduced itself.

UNDERSTANDING THE FUNDAMENTALS OF HANS Kelsen'S PURE LEGAL THEORY

Hans Kelsen's thinking cannot be separated from the influence of medieval philosophers, especially the thoughts of philosophers from Germany at that time was well-known, namely Immanuel Kant. To understand Hans Kelsen's thoughts on legal certainty, the author will explain the Kantian and neo-Kantian methodologies used by Kelsen in several of his work.

Hans Kelsen was also heavily influenced by neo-Kantian thought. As discussed by Stanley L. Paulson that there were other influences on Hans Kelsen's thought, among these figures were Georg Jellinek, one of the leading figures in the field of public law in Germany, philosopher Ernst Mach, and theorist Adolf Julius Merkl. In 1934 and around 1967, Hans Kelsen published one of his greatest works entitled Pure Theory of Law. As is well known, the Pure Theory of Law is the work of Hans Kelsen which influences the Kantian and neo-Kantian dimensions.

In an essay by Stanley L. Paulson entitled *rechtstheorie*, he explains that at the same time the neo-Kantian influence on his work reached its peak. Because of the earlier, constructivist phase that is evident in his Habilitation Schrift, published in 1911. There has been a marked shift in thought in his attempts to produce, although disorganized, it is shown to give something akin to a neo-Kantian basis to his theory during the next decade. After 1934, Hans Kelsen introduced his empiricist body of concepts, such as by including Hume's analysis of causality in several of his works, and argued that the a priori

categories related to causality were a misstep, more so than Hume's. In later years, after 1960, Hans Kelsen was no longer as prominent as the Pure Theory of Law as we know it from its second and third phases. Rather, Hans Kelsen introduced elements of the law of statutory theory and the law of will theory as a replacement (Asshddigie & Safa'at, 2012, p. 5).

Seeing this, Kelsen really underwent a doctrinal change, therefore he used another alternative to the Pure Theory of Law in the second and third phases, namely the theory of law of statutes and the theory of law of will. Thus the denial of previous theories due to natural law theory and empiricist-positivist theory confuses law with justice as well as law and facts. This cannot be justified, because the law has its specific meaning.

Based on this strategy, Hans rejected all of the above intentions, both natural law theory, and empiric-positivistic legal theory so that Kelsen has experienced the antinomy of 8 jurisprudence as stated in Stanley L. Paulson's essay entitled *rechtstheorie*. According to Hans Kelsen, the theory of natural law and the empiricist-positivist theory raises a contradiction, so these two statements cannot be justified according to Hans Kelsen. Then Hans Kelsen introduced an alternative to these traditional theories, namely through the Pure Theory of Law. That his pure theory is free from elements extraneous to both types of traditional theory and is independent of morality and actual facts (Kelsen, 2012, p. 5).

The development of law continues to progress, in the end, Hans Kelsen found two main theses, namely the morality thesis and the separation thesis. However Hans Kelsen considers four theses, the other two theses relate to the previous thesis namely the reductive thesis which states that law is finally explained in factual terms simply that this thesis emphasizes the inseparability of law and facts. The antithesis is the normativity thesis which states the separation of law and facts (Asshddigie & Safa'at, 2012, p. 10).

Based on this explanation, Hans Kelsen concluded that the law must remain clean from elements outside the law, in pure legal theory Hans Kelsen wants the law to be autonomous (stand-alone). So the law is not allowed to deal with morals, religion, politics, and so on.

CONCLUSION

Hans Kelsen, through pure legal theory, concluded that law must remain clean from elements outside the law. Law must be autonomous (stand-alone). The law should not deal with morals, religion, politics, and so on. Because the law has its own logic that has specific characteristics that are specific. Meanwhile, John Austin with the theory of legal positivism has given birth to an understanding that considers that the separation between law and morals is very important.

By distinguishing what makes a norm exist as a valid legal standard and what makes a norm exist as a valid moral standard. Legal norms can be accepted as law as long as they meet the formal criteria of the law. That is, the law made by the highest authority by itself must be accepted as applicable law which requires obedience to all people and will reach anyone without exception. This difference in point of view is of course based on how the social conditions of these great figures through the process of formulating a science tend to be influenced by the background of the place where the acquisition of knowledge is carried out, especially regarding the concept of understanding law.

REFERENCE

- Ali, A. (2009). *Menguak Teori Hukum (Legal Theory) dan Teori Peradilan (Judicial Prudence) Termasuk Interpretasi Undang-Undang (Legis Prudence)*. Kencana Prenada Media Group.
- Asshddigie, J., & Safa'at, M. A. (2012). *Teori Hans Kelsen Tentang Hukum*. Jakarta: Konstitusi Press.
- Austin, J. (1995). *Austin: The Province of Jurisprudence Determined* (W. E. Rumble, Ed.). Cambridge: Cambridge University Press. <https://doi.org/10.1017/CBO9780511521546>
- Cambridge, dictionary. (n.d.). Legal. Retrieved December 26, 2022, from Cambridge Dictionary website: <https://dictionary.cambridge.org/dictionary/english/legal>
- cambridge, dictionary. (n.d.). Positivism. Retrieved December 26, 2022, from Cambridge Dictionary website: <https://dictionary.cambridge.org/dictionary/english/positivism>
- Dicey, A. V. (2007). *Lectures on the Relation between Law and Public Opinion in England during the Nineteenth Century* (New Edition; R. VandeWetering, Ed.). Indianapolis, IN: Liberty Fund.
- Dwi Putro, W. (2012). *Kritik terhadap paradigma positivisme hukum*. Yogyakarta: Genta Publishing. Retrieved from <https://opac.perpusnas.go.id/DetailOpac.aspx?id=816956>
- Huijbers, T. (1991). *Filsafat Hukum*. Yogyakarta: Kanisius.
- Kelsen, H. (2005). *Pure Theory of Law*. New Jersey, United States: The Lawbook Exchange, Ltd.
- Kelsen, H. (2012). *Pengantar Teori Hukum (Introduction to the Problems of Legal Theory)*. Bandung: Nusa Media. Retrieved from <https://simpus.mkri.id/opac/detail-opac?id=7799>
- Latipulhayat, A. (2016). *Khazanah: John Austin*. *Padjadjaran Jurnal Ilmu Hukum (Journal Of Law)*, 3(2), 436-447.
- Leiboff, M., & Thomas, M. (2004). *Legal Theories: In Principle*. Melbourne: Lawbook Company.
- Samekto, Fxa. (2012). *Menggugat Relasi Filsafat Positivisme dengan Ajaran Hukum Doktrinal*. *Jurnal Dinamika Hukum*, 12(1), 74-84. <https://doi.org/10.24054/dinamika.v12n1.p74-84>

org/10.20884/1.jdh.2012.12.1.108

- Tebbit, M. (2017). *Philosophy of Law: An Introduction* (3rd edition). Abingdon, Oxon ; New York, NY: Routledge.
- Vinx, L. (2013). Austin, Kelsen, and the Model of Sovereignty: Notes on the History of Modern Legal Positivism. In M. Freeman & P. Mindus (Eds.), *The Legacy of John Austin's Jurisprudence* (pp. 51-71). Dordrecht: Springer Netherlands. https://doi.org/10.1007/978-94-007-4830-9_4
- Wacks, R. (2017). *Understanding Jurisprudence: An Introduction to Legal Theory*. In *Understanding Jurisprudence*. Oxford ; New York: Oxford University Press. Retrieved from <https://doi.org/10.1093/he/9780198806011.001.0001>
- West's Encyclopedia of American Law. (2008). Legal Positivism [West's Encyclopedia of American Law edition 2]. Retrieved December 26, 2022, from TheFreeDictionary.com website: <https://legal-dictionary.thefreedictionary.com/Legal+Positivism>