

Research Article

Rethinking Legal Legitimacy: A Critical Study of Law and Morality in Pluralistic Societies

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ABSTRACT: The relationship between law and morality has long been a central concern in legal philosophy, particularly in discussions of the legitimacy of legal systems. This question becomes increasingly pressing in pluralistic societies where diverse moral, cultural, and ethical perspectives coexist. This article critically examines classical legal positivism through the theories of Hans Kelsen and John Austin, both of whom advocate a strict separation between law and morality. While this approach offers legal certainty and analytical precision, this article argues that an exclusive reliance on formal validity risks distancing law from the moral expectations of the society it seeks to regulate. Legal norms that are formally valid yet morally disconnected may erode public trust, reduce compliance, and undermine social cohesion. In pluralistic contexts, law cannot operate effectively as a purely formal system detached from shared ethical concerns. This article, therefore, contends that legal legitimacy depends on a measured integration of moral reasoning, one that acknowledges moral diversity without subordinating law to any particular moral or religious doctrine. Accordingly, legal legitimacy should be understood not merely in a procedural or formal terms, but as a normative condition grounded in justice, human dignity, and moral accountability within a pluralistic legal order.

KEYWORDS: Law, Morality, Legal positivism, Pluralistic society, Legal legitimacy.

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Submitted: 15 July 2025 | Reviewed: 29 October 2025 | Revised: 22 November 2025 | Accepted: 27 December 2025

I. INTRODUCTION

The relationship between law and morality is best understood as one of distinction combined with inter-independence. Law relies on formal coercive mechanisms for enforcement, whereas morality functions primarily as a system of normative guidance without state-imposed sanctions.¹ Religious traditions have historically played a significant role in shaping moral frameworks. However, in modern societies, morality also emerges from cultural practices, rational deliberation, and broadly shared humanistic values. This plurality of amoral sources requires legal systems to accommodate moral diversity without privileging any single religious tradition.² In pluralistic societies, the incorporation of moral considerations into law therefore demands institutional mechanisms that respect diverse moral foundations while preserving neutral, secular legal processes and avoiding the endorsement of particular religious doctrines.³ The literature indicates that insights from moral psychology help explain how alignment between legal norms and widely shared moral values can enhance the perceived legitimacy of law, offering strategies for legitimacy that do not rely on religious authority.⁴ Ongoing debates address whether religious reasoning can or should serve as a basis for law-making. While legal positivists such as Hans Kelsen and John Austin emphasize the autonomy of law and morality from religion, other perspectives recognize religion as one of several historical influences on moral reasoning, without treating it as a direct source of legal validity.⁵ Overall, this article argues for a balanced approach in which morality is understood as multi-sourced (religious, cultural, rational), integrated into law through impartial, and inclusive legal reasoning suited to diverse societies.

Morality and law mutually reinforce legal legitimacy when legal norms reflect shared ethical commitments and are supported by forms of moral reasoning

¹ Izhak Englard, “Law, Religion, and the Rule of Law from a Normative-Positivist Perspective” (2017) 5:3 *Journal of Law, Religion and State* at 176–177.

² Aziza Aziz Rahmaningsih & Retanisa Rizqi, “Agama dan Moral dalam Pembentukan Substansi dan Struktur Hukum” (2022) 2:2 *As-Siyasi J Const Law* at 155–156.

³ Michael J Perry, “Religion as a basis of law-making?: Herein of the non-establishment of religion” (2009) 35:1–2 *Philosophy & Social Criticism* at 110–111.

⁴ Eva Grosfeld, Daan Scheepers & Armin Cuyvers, “Mapping the moral foundations of the European Union: Why a lack of moral diversity may undermine perceived EU legitimacy” (2024) 3:8 *PNAS Nexus* at 283.

⁵ Piero Pinzauti, “The Autonomy of Morality from Religion. The End of Religion and of Relativism. Howard Mounce on Peter Winch” (2012) 35:2 *Philosophical Investigations* at 156–157.

within pluralistic societies.⁶ The integration of moral principles into legal frameworks has been shown to enhance perceptions of justice, promote compliance, and strengthen public trust. Empirical studies indicate that perceived moral alignment often influences compliance more strongly than perceived legitimacy alone,⁷ while procedural justice plays a critical role in shaping legitimacy across diverse communities.⁸ The interaction between Natural law traditions, some of which historically draw upon religious conceptions of moral order, and legal positivism offers pathways for institutionalizing ethical consideration without undermining the rule of law. This interaction is particularly evident in inclusive legal positivism, which allows moral criteria, whether religious or secular in origin, to inform legal content when incorporated through recognized legal sources.⁹ Legal pluralism further acknowledges multiple sources of normative authority, including religious, customary, and state law, and provides mechanisms for harmonizing morality with law in diverse societies. Collectively, these perspectives support the development of just, and inclusive legal systems that integrate ethical reasoning into legal processes while preserving formal authority and social legitimacy.¹⁰

The complex relationship between religious law and morality has long been the subject of sustained scholarly debate. Numerous research highlights the close interaction between religious beliefs and moral frameworks, suggesting that religious convictions often provide an important foundation for moral judgments and behaviors.¹¹ This perspective aligns with the argument that moral values are closely tied to religious teachings. Barak-Corren and Bazerman further clarify this connection by demonstrating that personal religiosity is associated with deontological moral judgments, whereby individuals who believe in divine authority are more likely to reason in terms of duty and obligation.¹² From this

⁶ Tom R Tyler, Stephen Schulhofer & Aziz Z Huq, “Legitimacy and Deterrence Effects in Counterterrorism Policing: A Study of Muslim Americans” (2010) 44:2 Law Soc Rev at 371–372.

⁷ Jingkang Gao & Jinhua Zhao, “Legitimacy versus morality: Why do the Chinese obey the law?” (2018) 42:2 Law and Human Behavior at 171–172.

⁸ Tyler, Schulhofer & Huq, “Legitimacy and Deterrence Effects in Counterterrorism Policing”, *supra* note 6.

⁹ АБ ДИДИКИН, “Inclusive legal positivism: Basic arguments” (2023) 3:100 las at 7.

¹⁰ Robert Alexy, “On the Concept and the Nature of Law” (2008) 21:3 Ratio Juris at 286–287.

¹¹ Ali Teymoori, Arash Heydari & Hedayat Nasiri, “Relationship between dimensions of religiosity, authoritarianism, and moral authority” (2014) 61:1 Social Compass at 94.

¹² Netta Barak-Corren & Max H Bazerman, “Is saving lives your task or God’s? Religiosity, belief in god, and moral judgment” (2017) 12:3 Judgm decis mak at 282–283.

perspective, religious law is understood not merely as a social construct, but as a formative influence on moral consciousness and ethical decision-making.

Religion plays a significant role in shaping moral orientations and fostering prosocial values within broader ethical landscape. Empirical evidence suggests that religious beliefs often encourage altruistic behavior by strengthening individuals' commitment to communal moral norms and expectations. Religiosity has also been associated with a greater willingness to engage in costly prosocial behaviors, particularly in contexts where social reputation and collective accountability are salient.¹³ At the same time, morality is not derived solely from religion, it also emerges from secular philosophies, culturale traditions, and humanistic reasoning, all of which shape both individual conscience and legal norms. These diverse moral sources provide shared ethical foundations that enable legal systems in pluralistic societies to operate on principles of inclusivity, neutrality, and respect for moral diversity.¹⁴ Religious beliefs and emotional attachment to faith are closely associated with perceptions of moral authority and prosocial dispositions, such as empathy, fairness, cooperation, and respect for shared norms, positioning religion as an important moral reference point within communities. However, cross-cultural research demonstrates that moral outcomes are culturally contingent and significantly shaped by secular mechanisms, such as institutional trust, education, and social norms, which interact with religious influences in legitimizing law and sustaining social order. Studies further indicate a strong relationship between religious beliefs and support for moral regulation in legal contexts. Spiritual teachings often provide the foundation of ethical codes, guiding individuals in distinguishing between right and wrong.¹⁵ The connection between religion and morality is deeply rooted in the belief that awareness of a higher power generates moral obligations and a sense of purpose.¹⁶ Over time, the interaction of law, religion, and morality gives rise to social norms, codified or implicit standards of

¹³ Ara Norenzayan & Azim F Shariff, "The Origin and Evolution of Religious Prosociality" (2008) 322:5898 Science at 59.

¹⁴ Ali Teymoori, Arash Heydari & Hedayat Nasiri, "Relationship between dimensions of religiosity, authoritarianism, and moral authority" *supra* note 11

¹⁵ Joseph Cudjoe Awudja et al, "Public Attitudes towards Death Penalty Provisions: Relevance of Ethico-Phenomenological Principles in the Operation of Articles 3(3) & 19(2) of the 1992 Republican Constitution of Ghana" (2021) 09:12 JSS at 4–5.

¹⁶ Charles A Ellwood, "Religion and Social Control" in *The Vitality of Karamojong Religion* (Routledge, 2017) at 103.

behavior that define desirable actions and regulate conduct within a community. These norms function both as a formal rules and as shared expectations that shape ideal behavior.¹⁷ Moreover, various studies indicate a significant connection between religious conservatism and support for moral regulation, particularly in legal contexts. As Silver's work suggests, binding moral frameworks, which often rooted in religious belief, play a substantial role in shaping attitudes toward moral regulation and legal authority among religious conservatives.¹⁸ These findings highlight how deeply rooted beliefs in divine authority can influence perceptions of justice, morality, and legal interpretation extending the impact of moral frameworks from individual belief systems into the collective social conscience.

This discussion highlights how deeply rooted moral beliefs, shaped by religious, cultural, and philosophical traditions, influence societal perceptions of justice and legitimacy. In pluralistic societies, religion constitutes one among several moral sources that inform collective understandings of right and wrong. Acknowledging this moral diversity is essential for ethical considerations into law in a way that upholds fairness and inclusivity. Rather than treating religion as the sole foundation of morality, this analysis emphasizes the interaction of multiple moral frameworks, including religious ethics, in shaping legal interpretations and reinforcing social norms that sustain legal legitimacy.¹⁹

The inclination to act for the good of others emerges from social interaction based guided by rational reflection and moral judgment, giving rise to systems of norms that structure social life. These include moral norms, social norms governing manners, and legal norms. Social norms are shaped by shared cultural expectations, while legal norms derive their authority from the state and are enforced through formal compliance. Moral norms, by contrast, are rooted in individual conscience and personal ethical judgement.²⁰

¹⁷ Satjipto Raharjo, *Hukum dan Masyarakat* (Bandung: Angkasa, 1984) at 76.

¹⁸ Jasmine R Silver, "Binding Morality and Perceived Harm as Sources of Moral Regulation Law Support Among Political and Religious Conservatives" (2020) 54:3 *Law Soc Rev* at 685–686.

¹⁹ Kraig Beyerlein, Sarah A Soule & Nancy Martin, "Prayers, Protest, and Police: How Religion Influences Police Presence at Collective Action Events in the United States, 1960 to 1995" (2015) 80:6 *Am Sociol Rev* at 1256–1257.

²⁰ Theo Huijbers, *Filsafat Hukum* (Yogyakarta: Kanisius, 1995) at 64–65.

Hasanuddin Sinaga distinguishes ethics from morality by characterizing ethics as primarily theoretical and universal in scope, while morality is practical and locally grounded.²¹ In this view, morality provides standards of conduct, whereas ethics offers the conceptual framework through which those standards are explained. Although law and morality differ, their close relationship narrows the divide, as law reflects the moral demands inherent in social life.²² The evolution of moral reasoning further complicates this relationship. Theories of moral development identify religious reasoning as a significant influence on moral cognition, suggesting that for many individuals, moral understanding is rooted in notions of divine command.²³ Divine command theory, in particular, holds that ethical principles derive from religious teachings, thereby reinforcing a direct connection between religious law and moral imperatives. Several studies indicate that individuals who strongly identify with their religious traditions tend to express more rigid moral judgments and show greater resistance to utilitarian reasoning that emphasizes broader social outcomes.²⁴ This pattern illustrates how adherence to moral codes grounded in religious law may limit flexibility in moral reasoning.

The law must be grounded in sound moral principles if legal disputes are to reflect substantive justice rather than mere procedural formality. When moral considerations are neglected, justice risks becoming superficial and disconnected from societal values.²⁵ Although this insight is well established in legal philosophy, its contemporary significance lies in how moral reasoning can be applied within pluralistic societies, where diverse ethical and cultural frameworks coexist. In such contexts, the central challenge is not simply to assert that law should embody morality, but to determine which moral values can guide law-making and adjudication in ways to preserve fairness and legitimacy across different social groups.²⁶ Accordingly, the integration of moral reasoning into

²¹ Hasanuddin Sinaga, *Pengantar Studi Akhlak* (Jakarta: PT. Raja Grafindo Persada, 2004) at 19.

²² *Ibid.*

²³ Lawrence Kohlberg & Clark Power, "MORAL DEVELOPMENT, RELIGIOUS THINKING, AND THE QUESTION OF A SEVENTH STAGE" (1981) 16:3 *Zygon* at 208–209.

²⁴ Jared Piazza & Justin F Landy, "'Lean not on your own understanding': Belief that morality is founded on divine authority and non-utilitarian moral judgments" (2013) 8:6 *Judgm decis mak* at 641–642.

²⁵ Jessica C M Li et al, "Police legitimacy and procedural justice for children and youth: a scoping review of definitions, determinants, and consequences" (2024) 9 *Front Sociol* at 3–4.

²⁶ Arata Yamamoto, "From value to meaning: Exploring the ethical basis of Chantal Mouffe's agonistic pluralism" (2020) 19:2 *Planning Theory* at 238–239.

legal processes requires sensitivity to moral diversity, alongside a sustained commitment to justice and human dignity as shared normative ideals.

Moreover, the relationship between morality and religion is reciprocal, as shifts in moral understanding can also prompt changes in religious belief.²⁷ This interaction underscores the dynamic character of morality, which is continually shaped by sociocultural factors. For instance, research on civic behaviors shows that moral convictions influence political participation, including voting patterns, indicating that moral and religious beliefs play a significant role in shaping political choices. These dynamics further blur the boundaries between individual ethical frameworks and collective social norms.²⁸

Against this theoretical background, this study examines the interplay between morality and law within social systems. Moving beyond traditional approaches that treat law and morality as separate domains, this study demonstrates how their integration contributes to justice and social order. Adapting an interdisciplinary approach, it combines doctrinal legal analysis with a nuanced moral understanding of their relationship. It further explores how cultural and religious contexts shape this integration, providing a comprehensive account of the ways moral considerations influence legal reasoning. By emphasizing the importance of a moral foundation in law, this research highlights the practical implications of moral integration for the development of fair and just legal systems. Thereby contributing significantly to legal studies and ethics. The study is grounded in doctrinal legal analysis supported by a qualitative examination of legal texts and scholarly literature. The discussion draws on statutory regulations, judicial decisions, legal doctrines, and relevant academic works to analyze how moral considerations intersect with legal reasoning in social systems. Particular attention is given to the Indonesian legal context, where law operates within a social environment shaped by moral, cultural, and religious values. Through thematic interpretation of legal norms and theoretical arguments, the analysis explores how moral principles are articulated, negotiated, and institutionalized within legal

²⁷ Onurcan Yilmaz et al, “Intergroup tolerance leads to subjective morality, which in turn is associated with (but does not lead to) reduced religiosity” (2020) 42:2 *Archive for the Psychology of Religion* at 236.

²⁸ G Scott Morgan, Linda J Skitka & Daniel C Wisneski, “Moral and Religious Convictions and Intentions to Vote in the 2008 Presidential Election” (2010) 10:1 *Anal Soc Iss & Public Policy* at 311–312.

frameworks, enabling an assessment of their role in sustaining legal legitimacy, justice, and social order.

II. MORAL PARADIGM IN LEGAL THEORY

A. Ethical Values in Law from Hans Kelsen's Perspective

The field of law, as a system of rules governing human conduct, represents a complex domain in which order and uncertainty intersect.²⁹ Legal norms incorporate factual assumptions, societal objectives, and legal consequences, reflecting the multifaceted nature of regulation.³⁰ Owing to the ambiguity of legal language and the diversity of underlying values, the legal system functions as a complex adaptive system. As a result, understanding law requires a holistic perspective rather than a narrow focus on individual rules, since the substance of the legal system is shaped by the norms that define its content and operation.³¹ Understanding law requires a holistic approach rather than a narrow focus on individual regulations, since the substance of the legal system is shaped by the norms that define its content and operation.³² The assertion that law regulates human conduct further implies that the legal systems address not only human behavior itself but also the specific circumstances in which that behavior occurs. In social life, regulation extends beyond legal rules to include moral and religious principles. Because these normative systems are distinct, a precise definition of law is necessary to distinguish it from other forms of social regulations. Each of these systems comprises norms with different characteristics and modes of authority.³³

From Kelsen's perspective, the object of legal science is the legal norm that regulates human conduct, whether by prescribing conditions or specifying the

²⁹ Pierre Legrand, "European Legal Systems are not Converging" (1996) 45:1 *International and Comparative Law Quarterly* at 60.

³⁰ Jorge M Oliveira-Castro & Julio Cesar De Aguiar, "Behavioral Analysis of Law: An Operant Interpretation of Legal Systems" (2020) 11:1 *Perspectivas em Análise do Comportamento* at 95–96.

³¹ Ni Zhang & Zixuan Zhang, "The application of cognitive neuroscience to judicial models: recent progress and trends" (2023) 17 *Frontiers in Neuroscience* at 2–3.

³² Mario Krešić, "About Non-Positivist Perspective on Legal Values in International Law" (2020) 4:2 *Bratislava Law Review* 31–48 at 34–35.

³³ Khudzaiyah Dimiyati, *Hukum dan Moral Basic Epistemologi Paradigma Rasional H.L.A. Hart* (Yogyakarta: Genta Publishing, 2017) at 31.

consequences attached to these conditions.³⁴ Social relationships fall within the scope of legal science only insofar as they are governed by legal norms.³⁵ Consequently, Kelsen characterizes the study of law as a social and technical inquiry rather than a moral problem. Instead of assessing whether a law is just or morally desirable, the Pure Theory of Law seeks to describe law as a system of valid norms. Law examined independently of considerations of justice is therefore understood as positive law.

Value systems do not arise solely from individual choice but develop through interaction among members of a social group. Moral frameworks and conceptions of justice are therefore socially shaped and vary according to the historical, cultural, and social conditions of each society. Alongside legal norms, social norms play a significant role in regulating human behavior and structuring relationships within communities. Law, accordingly, cannot be understood merely as a branch of ethical inquiry, but as a normative system that operates within a broader social and moral context.³⁶ The existence of values that are widely accepted within particular societies does not negate the relative and contextual nature of value justification. Likewise, the presence of multiple individual justifications does not, in itself, establish the universal validity of those values.³⁷

Charles E. Rice argues that Hans Kelsen's legal science is grounded in philosophical relativism. This position reflects an epistemological view that limits knowledge to human cognition, while absolute reality, if it exists, as ultimately inaccessible. On this basis, Kelsen rejects philosophical absolutism, which he associates with political absolutism, and instead aligns philosophical relativism with political relativism, understood as democratic governance. Because law, in Kelsen's theory, is methodologically independent of judgements about right and wrong or claims to absolute justice, legal validity does not derive from moral truth but from formally recognized procedures. Law thus functions as a system of

³⁴ Hans Kelsen, "On The Pure Theory of Law" (1966) 1:1 *Isr law rev* at 4.

³⁵ Jimly Asshiddiqie dan M Ali Safa'at, *Teori Hans Kelsen Tentang Hukum* (Jakarta: Konstitusi Press (Konpress), 2012) at 14.

³⁶ Hans Kelsen, *Teori Hukum Murni Dasar-Dasar Ilmu Hukum Normatif* (Bandung: Nusa Media, 2015) at 67.

³⁷ Hans Kelsen, *General Theory of Norms* (Oxford: Clarendon Press, 1991) at 5.

norms expressing the collective will of the majority within a framework that presupposes the equality of legal subjects.³⁸

More broadly, positivist traditions tend to be skeptical of the capacity of human reason to identify objective standards of right and wrong. From this perspective, criteria of justice, much like criteria of truth, cannot be established merely by the frequency or intensity with which particular justifications are asserted. Given the diversity of human societies, shaped by variations in culture, religion, social position, professional background, and historical experience, conceptions of justice inevitably vary. Accordingly, a comprehensive account of these competing understandings of justice lies beyond the scope of this study.³⁹

The attempt to rationally justify postulates grounded solely in subjective value judgements risks collapsing into ideology rather than genuine justification. Such an ideology typically emphasizes predetermined ends and prescribes human conduct as if it were dictated by natural necessity, rational determinism, or divine will. Within natural law doctrine, God's will is often equated with nature itself, on the premise that nature is created by God and that natural law represents a manifestation of divine intention. In this view, natural law is not a product of human choice or social construction, but is understood as inherent, immutable, and discoverable through rational reflection on nature. However, critics argue that natural law is a theory that ultimately struggles to specify the substantive content of a just legal order. Justice is frequently articulated in abstract or tautological terms, such as Kant's imperative category, which states that one's actions must be determined only by principles that will bind everyone.⁴⁰

Discussions of justice, particularly the distinction between right and wrong, are closely linked to both positive law and natural law traditions. Legal theory often assumes that justice requires adherence to what is deemed right and the avoidance of what is considered wrong. Yet this binary framing risks oversimplifying the concept of “right”, which is frequently context-dependent and shaped by social and cultural factors. While positive law aims to establish a coherent legal order, formally valid laws may nonetheless yield unjust outcomes, exposing the

³⁸ Jimly Asshiddiqie dan M. Ali Safa'at, *supra* note 35.

³⁹ *Ibid.*

⁴⁰ *Ibid.*

limitations of legal systems grounded solely in positive norms.⁴¹ From a critical perspective, natural law theory further suggests that the moral values underlying claims of justice are not universally objective but often reflect the interests and perspectives of particular social groups, a tension that continues to inform debates over the relationship between natural law and positive law.⁴²

From this perspective, justice lies beyond the reach of rational knowledge; although it plays a vital role in guiding human action, it cannot be fully apprehended through reason alone. What rational inquiry can identify are competing interests and conflicts of interest within society. Legal resolution, therefore, takes the form of rules that either prioritize certain interests over others or seek compromise among them. Whether such outcomes are “just” cannot be determined through rational knowledge, but only through legally established norms expressed in objectively defined laws. These rules constitute positive law, which, unlike metaphysical conceptions of justice, can be treated as an object of scientific inquiry. This approach underpins Hans Kelsen’s Pure Theory of Law, which seeks to describe law as it exists, without endorsing it as fair or morally justified.⁴³ Kelsen’s theory thus represents an effort to articulate a coherent and methodologically rigorous conception of law, rather than to identify an ideal or substantively just legal order.

Kelsen’s theory is situated within the broader context of legal positivism, which holds that the validity of law depends not on its moral merits but on its creation through recognized legal procedures.⁴⁴ This position challenges traditional conceptions of justice that closely link law with ethical evaluation, suggesting instead that legal systems can operate effectively without relying on moral justification.⁴⁵ In this regard, Shapiro’s account of the guidance function of law emphasizes that legal rules must be capable of motivating compliance, regardless

⁴¹ Xuekun Yu, “On the Relationship between Law and Morality: From the Perspective of Evil Law is Illegal or Evil Law is Also Law” (2023) 3:2 JEER at 133–134.

⁴² “Law College of Kashkadarya region ” & Sanjar Amirov, “THEORY OF NATURAL LAW AND ITS ESSENCE” (2024) 4:4 Jurisprudence at 21–22.

⁴³ Jimly Asshiddiqie dan M. Ali Safa’at, *supra* note 38.

⁴⁴ Jochen von Bernstorff, *The Public International Law Theory of Hans Kelsen* (Cambridge University Press, 2010) at 226–227.

⁴⁵ Alexander Orakhelashvili, “The essence and basic methods of the pure theory” in *Domesticating Kelsen* (Edward Elgar Publishing, 2019) at 76.

of their moral content.⁴⁶ This view reinforces the claim that legal authority derives from procedural legitimacy rather than its ethical substance. The positivist insistence on the separation of law and morality is further supported by scholars like H. L. A. Hart, who argued that legal validity is determined by social sources rather than moral criteria.⁴⁷

Kelsen's Pure Theory of Law remains a valuable methodological point of departure for understanding law as a normative system. However, its strict separation of law from other disciplines limits its explanatory capacity in contemporary legal contexts that are closely intertwined with politics, human rights, and moral philosophy.⁴⁸ Modern legal practice cannot be detached from institutional and sociopolitical realities, as courts routinely engage with right-based discourse, international norms, and moral reasoning that extend beyond formal normativity.⁴⁹ An interdisciplinary framework allows Kelsen's concept of the Grundnorm to be treated as a foundational heuristic rather than a closed system, capable of being enriched by insights from human rights theory, political philosophy, and related fields. Such an approach better captures how legal legitimacy is constructed through the interaction of power relations, rights claims, and moral justification.⁵⁰ This perspective aligns with scholarship on human rights and legal pluralism, which challenges rigid theoretical boundaries and emphasizes justice, human dignity, and accountability as central components of legal legitimacy.⁵¹

B. Ethical Values in Law from John Austin's Perspective

John Austin's account of the relationship between law and moral values constitutes a foundational contribution to the development of legal positivism.

⁴⁶ Scott J. Shapiro, "Was Inclusive Legal Positivism Founded on a Mistake?" (2009) 22:3 *Ratio Juris* at 329–330.

⁴⁷ Horacio Spector, "A Pragmatic Reconstruction of Law's Claim to Authority" (2019) 32:1 *Ratio Juris* at 24–25.

⁴⁸ Matthew Bolton, "Three theories of separation: Kelsen, Schmitt and Pashukanis and the historical development of the legal form" (2024) 50:10 *Philosophy & Social Criticism* at 1572–1573.

⁴⁹ Lawrence O. Gostin et al., "The World Health Organization was born as a normative agency: Seventy-five years of global health law under WHO governance" (2024) 4:4 *PLOS Glob Public Health* at 3–4.

⁵⁰ Aled Dilwyn Fisher, "Legal Pluralism and Human Rights in the Idea of Climate Justice" (2016) 2:3 *OLR* at 205–206.

⁵¹ Matthias Mahlmann, *Mind and Rights: The History, Ethics, Law and Psychology of Human Rights*, 1st edn (Cambridge University Press, 2023) at 2–3.

Through his analytical jurisprudence, Austin conceptualizes law as a command issued by a sovereign authority and backed by the threat of sanctions, a formulation that deliberately separates legal validity from moral evaluation. By defining law in these terms, Austin establishes a strict distinction between law and morality, a principle that has become a defining feature of the legal positivist tradition.⁵² This separation is central to Austin's project, as it enables the analysis of law as a social institution independent of moral judgment, which he regarded as essential to understanding the nature and operation of legal systems.⁵³

In *The Province of Jurisprudence Determined*, John Austin draws a clear distinction between positive law and moral law, arguing that the existence and validity of a legal rule depend not on its moral content but on its source and enforcement within a legal system.⁵⁴ This position has prompted sustained critique, particularly with respect to its applicability to contemporary legal practices. Critics contend that Austin's model fails to capture the complexity of legal interpretation or the moral considerations that frequently influence judicial decision-making.⁵⁵ While Austin's framework suggests that law can operate independently of moral judgment, modern legal theorists emphasize that legal systems often incorporate moral reasoning, especially in cases involving human rights and social justice.⁵⁶

The implications of Austin's legal positivism also extend to debates on the legitimacy of laws. While Austin maintains that laws are valid insofar as they are enacted by a recognized authority, this position raises concerns about the moral legitimacy of laws that may be unjust or oppressive.⁵⁷ These concerns are particularly salient in contemporary legal contexts, where the moral consequences of laws are subject to increasing scrutiny. As a result, many scholars argue for a

⁵² Damir Banović, "About John Austin's analytical jurisprudence: The empirical-rationalist legal positivism1" (2021) 21:1 *International and Comparative Law Review* at 244–245.

⁵³ Ahmad Fanani & Muhammad Sulthon Zulkarnain, "Understanding John Austin's Legal Positivism Theory and Hans Kelsen's Pure Legal Theory" (2022) 1:2 *Peradaban Journal of Law and Society* at 109–110.

⁵⁴ Mouaid Al Qudah, "The Moral Foundations of Criminal Liability" (2014) 2:3 *Intellectual Property Rights: Open Access* at 116.

⁵⁵ Brian H Bix, "John Austin and Constructing Theories of Law" (2011) 24:2 *Canadian Journal of Law & Jurisprudence* at 435–436.

⁵⁶ Giorgio Pino, "Positivism, Legal Validity, and the Separation of Law and Morals" (2014) 27:2 *Ratio Juris* at 201–202.

⁵⁷ Jules L Coleman, "Beyond the separability thesis: Moral semantics and the methodology of jurisprudence" (2007) 27:4 *Oxford Journal of Legal Studies* at 589–590.

more integrated approach that takes into account both legal validity and moral evaluation in order to achieve a more comprehensive understanding of law.⁵⁸

In summary, John Austin's contributions to legal positivism emphasize a clear separation between law and morality, defining law primarily as a product of social authority rather than moral obligation. At the same time, the limitations of this approach have generated sustained debate over the role of moral values within legal systems. These debates underscore the need for a more nuanced understanding of law, one that acknowledges the practical and conceptual interplay between legal rules and ethical considerations in contemporary jurisprudence.⁵⁹

John Austin's Command Theory of Law, with its emphasis on commands, sovereignty, and sanctions, provides a foundational framework for understanding law from a positivist perspective. While the theory offers analytical clarity and conceptual simplicity, it has also been subject to criticism for its narrow focus and limited engagement with the moral dimensions of law. Despite these critiques, Austin's framework has had a lasting influence on legal thought and statutory interpretation, underscoring the central role of authority and enforcement in legal systems.⁶⁰

In classical legal positivism, of which John Austin is a central figure, law is positioned in sharp distinction from morality. This strict separation reflects the historical emergence of legal positivism as a reaction against natural law theories and their reliance on moral, religious, or metaphysical foundations.⁶¹ With the rise of modern legal thought, doctrines of divine participation in legal order were strongly rejected in favor of human autonomy and empirically grounded legal analysis. Within this context, Austin advanced his theory of law as the command of a sovereign, asserting that legal validity derives from authoritative commands backed by sanctions rather than from moral or religious considerations. Despite its analytical clarity, Austin's command theory has been criticized for its difficulty in distinguishing legal norms from ordinary commands within hierarchical social

⁵⁸ Peter Rijpkema, "The inevitability of moral evaluation" (2011) 24:4 Ratio Juris at 418–419.

⁵⁹ Banović, *supra* note 52.

⁶⁰ Dwanda Julisa Sistyawan et al, "the Development of Positivism'S Legal Theory: From Bentham To Hart" (2024) 9:2 Petita: Jurnal Kajian Ilmu Hukum dan Syariah at 781–782.

⁶¹ Dimiyati, *supra* note 33.

relations. By emphasizing coercion and obedience as defining features of law, the theory risks reducing law to an instrument of control and weakening its normative character as a system of rules. Nonetheless, Austin's analytical jurisprudence remains influential for its systematic approach to understanding law as it exists, particularly through its focus on clarifying the foundational concepts and structural elements of legal systems.⁶²

Conversely, integrative jurisprudence seeks to bridge the analytical and normative dimensions of law by employing a range of methods, including analytical, empirical, and normative approaches.⁶³ By combining these methodologies, it aims to develop a more comprehensive understanding of law that integrates theoretical reflection with practical applications. Moreover, methodological legal positivism maintains that legal theory should provide a value-neutral description of law as a social phenomenon, deliberately excluding normative judgments.⁶⁴ This position aligns with the analytical tradition in jurisprudence, which emphasizes the systematic and objective examination of legal concepts, structures, and institutional practices.

The Enlightenment marked a decisive transformation in human thought, grounded in an emphasis on reason, rational inquiry, and individual autonomy. During this period, human beings came to be understood as rational agents capable of informed judgement and of creating institutions to organize collective life. Thinkers such as Immanuel Kant famously framed the Enlightenment as humanity's emergence from self-imposed immaturity, urging individuals to rely on reason as the primary guide for thought and action.⁶⁵ In this intellectual shift, theological universalism was gradually displaced by scientific universalism, reflecting a movement away from cosmological explanations toward frameworks grounded in human reason and empirical inquiry.⁶⁶

⁶² Sistyawan et al, *supra* note 60.

⁶³ Matthias Klatt, "Integrative Jurisprudence: Legal Scholarship and the Triadic Nature of Law" (2020) 33:4 *Ratio Juris* at 383–384.

⁶⁴ Stephen R Perry, "Hart's Methodological Positivism" in *Hart's Postscript Essays on the Postscript to 'The Concept of Law'* (Oxford University Press, 2001) at 310.

⁶⁵ Subhasis Sahoo, "Recast(e)ing Scientific Temper in a Democracy: The Eccentricities of Ambedkarian Science" (2020) 69:2 *Sociological Bulletin* at 176–177.

⁶⁶ Thomas Aechtner, "Galileo Still Goes To Jail: Conflict Model Persistence Within Introductory Anthropology Materials" (2015) 50:1 *Zygon* at 212–213.

Furthermore, the Enlightenment was marked by a strong belief in social progress driven by science, technology, and rationality, often accompanied by aspirations toward an idealized society free from structural issues.⁶⁷ Within this intellectual climate, Austin articulated a clear distinction between natural law and positive law. For Austin, positive law constitutes law in the proper sense, as it consists of rules deliberately created and enforced by human authorities.⁶⁸ By contrast, the laws of God are not conclassified as positive law, since they are not humanly enacted but are understood as inherent moral principles grounded in transcendental authority. Accordingly, human-made laws, what Austin terms “positive” or “favorable” laws, are distinct from divine or natural laws. Forms of positive morality, such as habits or customs, further illustrate this distinction, as they arise from human behavior rather than from nature or divine command.⁶⁹

John Austin’s legal philosophy, particularly his commitment to legal positivism, underscores a strict separation between law and morality. Rejecting natural law principles, such as the classical *maxim bonum est faciendum et prosequendum, et malum vitandum*, as foundations of legal validity, Austin argues that law can be understood independently of moral considerations. His theory of law as the command of a sovereign authority supports the view that legal systems derive their validity from socially recognized sources and mechanisms of enforcement rather than from moral content. This position aligns with the broader legal positivist tradition, which holds that legal validity rests on identifiable sources and procedures, not on conformity with ethical standards.⁷⁰ Austin’s refusal to ground legal obligation in moral notions reflects a broader epistemic commitment that privileges legal authority and institutional fact over moral judgement.

Critics of legal positivism argue that a strict separation between law and morality may facilitate the enactment of discriminatory or unjust laws, thereby raising

⁶⁷ Susan Joao, *Regulating the diseased society: power and moral regulation in public health discourse* Carleton University, (2007) at 26–27.

⁶⁸ Sistyawan et al, *supra* note 60 at 783–784.

⁶⁹ Fang-Pei Chen, “Field Equations and Conservation Laws Derived from the Generalized Einstein’s Lagrangian Density for a Gravitational System and Their Influences upon Cosmology” (2008) 47:2 *International Journal of Theoretical Physics* at 421–437.

⁷⁰ Bix, *supra* note 55.

significant ethical concerns about its impact on societal well-being.⁷¹ From this perspective, a legal system lacking moral grounding risks generating anxiety and insecurity among citizens, as laws may be perceived as arbitrary or oppressive.⁷² Such concerns are particularly salient in debates over the enforcement of statutes to lack moral legitimacy, as this perception can erode public trust in legal institutions and weaken the law's normative authority.⁷³

The practical implications of legal positivism, particularly in law enforcement and the administration of justice, become problematic when legal rules are perceived as detached from moral considerations. Such separation may result in the application of laws that, although formally valid, appear unjust or oppressive in practice, thereby fostering public frustration, disillusionment, and diminished confidence in legal institutions.⁷⁴

The relationship between legal positivism and morality understanding the complexities of modern legal systems, particularly where legal norms diverge from ethical expectations. Legal positivism holds that law constitutes a system of rules distinct from morality, asserting that legal validity does not depend moral content. This approach provides a clear analytical framework for examining law as an autonomous system, separate from ethical evaluation. As Shapiro observes, exclusive legal positivism maintains that legal norms can exist without moral justification, thereby reinforcing a strict distinction between legal authority and ethical reasoning.⁷⁵ Nevertheless, this separation raises enduring concerns regarding the fairness, legitimacy, and social acceptance of legal rules and their application.⁷⁶

Classical legal positivism, as articulated by Hans Kelsen in *Reine Rechtslehre*, advances a strict separation between law and morality by insisting that legal

⁷¹ Frederick Schauer, "Was Austin Right After All? On the Role of Sanctions in a Theory of Law" (2010) 23:1 *Ratio Juris* at 18–19.

⁷² David Dyzenhaus, "Austin, Hobbes, and Dicey" (2011) 24:2 *Canadian Journal of Law & Jurisprudence* at 421–422.

⁷³ Michel Dion, "Is money laundering an ethical issue?" (2015) 18:4 *Journal of Money Laundering Control* at 432–433.

⁷⁴ Niclas Berggren, "Legal positivism and property rights: a critique of Hayek and Peczenik" (2006) 17:3 *Constitutional Political Economy* at 228–229.

⁷⁵ Shapiro, *supra* note 46.

⁷⁶ Frederick Schauer, "Positivism Before Hart" (2011) 24:2 *Canadian Journal of Law & Jurisprudence* at 469.

validity be assessed independently of moral considerations. In his Pure Theory of Law, Kelsen conceives law as a normative system whose meaning and validity can be examined without reference to ethical values, political objectives, or social interests, aiming to establish a legal science grounded exclusively in formal normativity.⁷⁷ This position forms a foundational pillar of legal positivism, which holds that the existence and content of law are determined by social facts and not by moral judgments.⁷⁸

Therefore, while legal positivism provides a systematic framework for interpreting law, integration of moral considerations remains essential for sustaining justice, fairness, and ethical integrity within society. The relationship between justice and morality is complex, particularly in legal critique and the evaluation of public institutions. Although justice constitutes a central dimension of morality, it does not exhaust the full range of moral principles. Legal criticism often extends beyond questions of justice and may arise from conflicts between legal rules and broader moral standards. In such cases, laws may provoke moral objections even when issues of justice, narrowly understood, are not the primary concern.⁷⁹

Classical legal positivism, including *reine rechtslehre* (the Pure Theory of Law), emphasizes a conceptual separation between law and morality, prioritizing the internal coherence and formal validity of legal norms without moral evaluation. However, this approach does not entirely deny the broader relationship between law and human morality. In practice, developed legal systems often reflect fundamental moral principles that extend beyond narrow notions of legal justice.⁸⁰ The interaction between justice and morality in legal discourse underscores the importance of moral reasoning in shaping legal frameworks. Contemporary movements opposing the death penalty, promoting human rights, and advancing non-discrimination illustrate how moral considerations continue

⁷⁷ Hans Kelsen, *Reine Rechtslehre - Studienausgabe der 2. Auflage 1960* (Verlag Österreich, 2017) at 18.

⁷⁸ Torben Spaak, “Kelsen’s Metaethics” (2022) 35:2 *Ratio Juris* at 162.

⁷⁹ C Daniel Batson et al, “Immorality from empathy-induced altruism: When compassion and justice conflict.” (1995) 68:6 *Journal of Personality and Social Psychology* at 1044–1045.

⁸⁰ Samuel Freeman, “The burdens of public justification: constructivism, contractualism, and publicity” (2007) 6:1 *Politics, Philosophy & Economics* at 10–11.

to influence legal norms and practices.⁸¹ Thus, while legal positivism seeks analytical clarity through the separation of law and morality, the effective operation of legal systems frequently requires a nuanced engagement with moral principles to sustain fairness, equality, and ethical legitimacy.

Examining the principles, norms, and standards that guide moral conduct presents inherent challenges, largely due to the complexity and interpretive nature of morality itself. Moral conceptions vary considerably across individuals and communities, and principles regarded as morally significant in one context may not be recognized as such in another. These variations give rise to divergent moral judgments and highlight the contextual and contested character of moral evaluation.⁸² Moreover, even when certain rules or principles are widely acknowledged as moral, disagreements persist regarding their meaning, scope, and normative status. Such disagreements often reflect differences in social experience, cultural background, and forms of knowledge that shape how moral principles are interpreted and applied. The interaction between morality and legal criticism underscores the importance of reasoning in assessing laws and social institutions. Although legal positivism advocates a conceptual separation between law from morality, the division generate ethical tensions when legal requirements conflict with widely held moral standards.⁸³ Accordingly, a nuanced understanding of moral principles and their contextual application is essential for addressing the complexities of moral judgment and ethical evaluations in legal and social life.

This article critically examines the justification for legal intervention in matters of morality, with particular reference to theses advanced by Patrick Devlin. Devlin distinguishes between a moderate and an extreme position. The moderate thesis maintains that society may suffer harm when its shared moral foundations are seriously eroded, thereby justifying limited legal intervention to preserve social

⁸¹ Elizabeth Anderson, “The Epistemology of Justice” (2020) 58:1 *The Southern Journal of Philosophy* at 18–19.

⁸² Alexios Arvanitis & Konstantinos Kalliris, “Consistency and moral integrity: A self-determination theory perspective” (2020) 49:3 *Journal of Moral Education* at 317–318.

⁸³ Michael Huemer, “A liberal realist answer to debunking skeptics: the empirical case for realism” (2016) 173:7 *Philosophical Studies* at 1992–1993.

cohesion.⁸⁴ This view suggests that society has a legitimate interest in maintaining certain moral standards, as significant departures from these norms may threaten the stability of the social fabric. By contrast, critiques of Devlin's extreme thesis focus on the claim that law should enforce prevailing moral standards even when they are not formally embodied in legal rules. Such an approach raises concerns about the potential infringement on individual liberties and the risks associated with imposing moral values through legal coercion.⁸⁵

The relationship between law and morality has long been a central concern in legal philosophy, most notably in H.L.A. Hart's critique of Patrick Devlin's legal moralism. Hart challenges the view that the law should function as an instrument for enforcing shared moral values, arguing instead that its primary role lies in maintaining social order and protecting individual liberty rather than prescribing moral conduct. This debate highlights the enduring difficulty of reconciling legal authority with moral judgment, revealing the complex and often contested boundaries between legal enforcement and moral responsibility.

Hart's position rests on the principle that the law should refrain from regulating private morality unless such conduct poses a demonstrable threat to public order or social stability. He argues that moral beliefs are inherently plural and subjective, and that imposing a single moral standard through legal coercion risks oppression and unjustified interference with individual freedoms.⁸⁶ In contrast, Devlin maintains that society has a legitimate interest in preserving shared moral standards, contending that the erosion of common morality may undermine social cohesion and ultimately cause societal harm. From this perspective, legal norms are seen not merely as instruments of order but as reflections of a community's moral commitments.⁸⁷

Philosophical debates on the relationship between law and morality often center on the tension between legal positivism and natural law theory. Legal positivists, including Hart, argue that the validity of law is independent of its moral content,

⁸⁴ Oles Andriychuk, "Exclusive Legal Positivism and Legal Autopoiesis: Towards a Theory of Dialectical Positivism" (2015) 46:1 *Rechtstheorie* at 49–50.

⁸⁵ Andriychuk, *supra* note 84.

⁸⁶ Emima Alistar (Hirlav), "The Relation Between Law and Morality" (2019) SSRN Electronic Journal at 359.

⁸⁷ Jens Damgaard Thaysen, "Defining Legal Moralism" (2015) 16:2 *Sats* at 186–187.

maintaining a conceptual separation between legality and morality.⁸⁸ In contrast, natural law theorists contend that legal legitimacy ultimately depends on alignment with moral principles.⁸⁹ This divide raises fundamental questions about the authority of laws that lack moral justification and about the broader implications such legal frameworks may have for societal values and the protection of individual rights.⁹⁰

Moreover, empirical studies indicates that public perceptions of legal legitimacy are strongly shaped by both the perceived moral substance of laws and the fairness of legal procedures.⁹¹ Although law may not require a moral foundation in a formal sense, public compliance and respect for legal authority often depend on the extent to which legal norms resonate with widely held moral beliefs. Consequently, the relationship between law and morality becomes central to public trust and to the capacity of legal institutions to uphold justice and ethical standards.⁹²

In conclusion, the debate between Hart and Devlin reflects a broader philosophical inquiry into the nature of law and its relationship with morality. Hart underscores the importance of legal autonomy from moral coercion, whereas Devlin highlights society's interest in protecting shared moral values through legal means. This ongoing discourse invites continued reflection on how legal systems can engage with ethical considerations while safeguarding individual freedoms and sustaining social order.

C. The Moral Paradigm in Legal Practices

The intersection of law and morality remains a fertile area of inquiry, continuing to provoke debate among legal scholars, ethicists, and practitioners. Central to discussing is whether moral principles should serve as a foundation for legal norms. a question with significant implications for the legitimacy and

⁸⁸ Dion, *supra* note 73.

⁸⁹ Joseph Raz, "About morality and the nature of law" (2017) *Law and Morality* at 145.

⁹⁰ Yagie Putra, Pujiyono Pujiyono & Joko Setiyono, "Dialectic Between Law and Morals in Examining Corruption Cases and Law Enforcement in Indonesia" (2023) at 141.

⁹¹ Noam Gur & Jonathan Jackson, "Procedure-content interaction in attitudes to law and in the value of the rule of law: An empirical and philosophical collaboration" (2020) *Procedural Justice and Relational Theory: Empirical, Philosophical, and Legal Perspectives* at 119.

⁹² Suwito et al, "Contemplating the Morality of Law Enforcement in Indonesia" (2023) *11:10 Journal of Law and Sustainable Development* at 7–8.

effectiveness of legal systems. Various theoretical perspectives illuminate the relationship between legal authority and ethical considerations. The transition from Hobbes theory to Spinoza, for instance, marks a shift in how law is understood as a guide to the good. Hobbes conceives law as a product of human will, designed to secure cooperation and peaceful coexistence by addressing human vulnerability through binding norms and regulations.⁹³ On the other hand, Spinoza emphasizes a more affirmative view of human nature, grounding law in the rational and virtuous capacities of individuals.⁹⁴ This shift reflects an understanding of law not merely as an instrument of control, but as an expression of humanity's inherent moral potential. As an interdisciplinary field, law cannot be fully understood in isolation from the social, philosophical, and ethical sciences that shape its development and application.⁹⁵

Moral law commonly arises from philosophical reasoning, social norms, and individual conscience, whereas religious law is grounded in sacred texts and doctrinal authority. For instance, Schwadel et al. show that religious identification can shape moral values, while also demonstrating that moral convictions may develop independently of religious beliefs. This finding highlights a dynamic and reciprocal relationship between the two rather than a simple dependence of one upon the other.⁹⁶

Within the conception of human nature as *imago Dei* (Bild Gottes), legal, moral, and religious norms may be understood as guiding frameworks that orient human beings toward the recovery of *fitrah*, or their original moral disposition. In Abrahamic narratives, the fall from Eden does not mark a descent into moral darkness, but rather reflects a persistent awareness of moral imperfection accompanied by an enduring aspiration to restore human dignity. This generates a longing for a righteous life, understood as the pursuit of ethical integrity and moral responsibility inherent in human nature.⁹⁷ Within this state of moral

⁹³ Hugo Cyr, "Functional and Existential Authorities" (2015) 28:2 Canadian Journal of Law & Jurisprudence at 269–270.

⁹⁴ Tholene Sodi, Diphete Bopape & Mpsanyana Makgahlela, "Botho as an essential ingredient of African psychology: an insider perspective" (2021) 51:3 South African Journal of Psychology at 446.

⁹⁵ Satjipto Rahardjo, *Ilmu Hukum* (Bandung: Alumni, 1985) at 5.

⁹⁶ Philip Schwadel et al, "The values of religious nones, dones, and sacralized Americans: Links between changes in religious affiliation and Schwartz values" (2021) 89:5 Journal of Personality at 872-873.

⁹⁷ Yovita A Mangesti dan Bernard L Tanya, *Moralitas Hukum* (Yogyakarta: Genta Publishing, 2014) at 29–30.

striving, various normative systems function to regulate and respond to the vulnerabilities of human existence. Religious norms operate as transcendental points of reference, moral norms guide individual conscience, and legal norms serve as public standards that structure collective life toward shared ethical aims.⁹⁸

For the law to serve society effectively, it must be grounded in moral and ethical principles. Law is not merely a set of written or unwritten rules, it is also a living system that evolves alongside social dynamics. In legal systems that rely heavily on codification, such as Indonesia's, delays in responding to societal needs frequently occur. This condition is closely linked to the development of modern rational and formal law, which emphasizes uniform application, procedural certainty, and institutional autonomy. Therefore, law and morality cannot be treated as entirely separate domains.⁹⁹ Their interaction is essential to ensure that law functions not only as a technical instrument but also as a practical means of protecting society. Legal norms must therefore be morally defensible in both theory and practice, where legal systems are required to prevent digital environments from encroaching upon individual rights.¹⁰⁰

Hans Kelsen, a seminal figure in legal theory, is best known for his Pure Theory of Law, which advocates a strict separation between law and morality. Kelsen's conceives law as a normative system that should be analyzed independently of sociological, political, economic, and historical considerations. This methodological stance seeks to preserve the autonomy and analytical clarity of legal science by excluding non-juridical elements that might obscure the objective study of law.¹⁰¹ In contrast to ethical inquiry, which employs reason to assess human values and moral judgments, Kelsen's legal theory focuses on the internal validity of norms as they operate within a legal system.¹⁰² This normative approach underpins Kelsen's insistence on the autonomy of legal norms and

⁹⁸ Tanya, *supra* note 97.

⁹⁹ Subiharta Subiharta, "Moralitas Hukum Dalam Hukum Praksis Sebagai Suatu Keutamaan" (2015) 4:3 Jurnal Hukum dan Peradilan at 385.

¹⁰⁰ Citi Rahmati Serfiyani et al, "Developers' Data Protection in the Open-Source Application with the Copyleft License" (2021) 8:1 eJLH at 23.

¹⁰¹ Stanley L Paulson, "The Purity Thesis" (2018) 31:3 Ratio Juris at 278–279.

¹⁰² Carsten Heidemann, *Hans Kelsen's Normativism* (Cambridge University Press, 2022) at 24–25.

reinforces his commitment to separating law from external moral and social influences.¹⁰³

Kelsen's legal positivist tradition, developed most prominently in the 1930s, has exerted a lasting influence on legal philosophy and jurisprudence.¹⁰⁴ His contributions to understanding law as a normative discipline are particularly significant, especially in his analyses on legal normativity and sovereignty. Beyond formal validity, law as a societal standard also presupposes several fundamental principles that inform legal morality. First, law should be universally applicable and oriented toward the common good. Second, its authority should not be monopolized by individuals or homogeneous groups, reflecting its universal nature.¹⁰⁵ Third, law must function as a public guide that upholds values of truth, justice, and the common good. Fourth, legal norms should resonate with broadly shared societal values. Fifth, the development of legal standards should arise from open and voluntary deliberation among diverse segments of society. Sixth, those entrusted with enforcing the law must embody and respect the normative values inherent in their institutional rules. Finally, violations of the duty to protect the public interest should be treated as morally condemnable, and the prevention of such violations requires the cultivation of accountability through appropriate and principled sanctions.

Philosophical debates on legal moralism further deepen our understanding of the moral dimensions of law. As Petersen notes, proponents of legal moralists argue for the incorporation of moral considerations into legal frameworks, emphasizing the evaluation of categories of conduct rather than isolated acts.¹⁰⁶ This approach reflects the view that law should embody widely shared moral standards, reinforcing the position that moral reasoning is not external to law but forms an essential component of legal judgment.

The dynamic character of ethical and legal judgments is further illustrated by Sobolev and Voegelé, who observe that individuals often experience tension

¹⁰³ Edward Hermann Häusler & Alexandre Rademaker, “On How Kelsenian Jurisprudence and Intuitionistic Logic Help to Avoid Contrary-to-Duty Paradoxes in Legal Ontologies” (2019) at 214–215.

¹⁰⁴ Spaak, *supra* note 78.

¹⁰⁵ Tanya, *supra* note 97.

¹⁰⁶ Thomas Søbirk Petersen, “New Legal Moralism: Some Strengths and Challenges” (2010) 4:2 Criminal Law and Philosophy at 218–219.

between legal norms and their personal ethical beliefs.¹⁰⁷ This insight underscores the contextual and subjective nature of moral evaluation and suggests that the relationship between law and morality is not fixed, but continually shaped by changing social values and norms. Overall, the moral paradigm in law reflects a deep interconnection between legal principles and ethical standards. The recognition of moral commitments as foundational to legal systems, the emphasis on ethical formation within legal education, and the theoretical contributions of legal moralism collectively illustrate the importance of integrating moral reasoning into legal discourse. This integration supports the development of a legal culture attentive to ethical responsibility and contributes to the pursuit of justice and social equity.

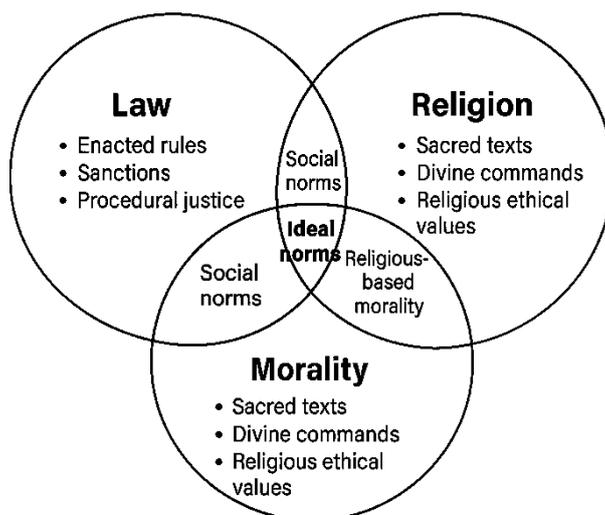
The interaction between legal norms and ethical considerations is particularly evident in the context of law enforcement. Dempsey et al., through a scoping review, demonstrating how complex socio-moral factors shape ethical decision-making in policing and argue that a nuanced understanding of ethics is essential for sustaining public trust and upholding the rule of law.¹⁰⁸ This analysis reflects a broader scholarly consensus that the legitimacy is closely tied to ethical foundations, thereby placing an expectation on legal practitioners to act within a framework that prioritizes moral integrity alongside legal authority.

An examination of these interconnections reveals that law cannot be separated from ethical scrutiny. Scholarly contributions consistently show that moral reasoning influences jurisprudence, corporate behavior, and systems of governance, supporting a framework in which ethical considerations do not merely inform but also underpin legislative processes and judicial interpretations. Recognizing moral paradigms within legal systems is therefore essential for effective governance, ensuring justice, and fostering ethical accountability in an increasingly complex social environment.

Figure 1. The Relationship between Law, Morality, and Religion in Social Norms Formation

¹⁰⁷ Daphne Sobolev & Niklas Voegelé, “Consumer Judgment of Morally-Questionable Behaviors: The Relationship Between Ethical and Legal Judgments” (2020) 165:1 *Journal of Business Ethics* at 148–149.

¹⁰⁸ Ronald P Dempsey, Elizabeth E Eskander & Veljko Dubljević, “Ethical Decision-Making in Law Enforcement: A Scoping Review” (2023) 5:2 *Psych* at 586–587.



The diagram illustrates the interconnected roles of law, morality, and religion in shaping social and normative ideals. Law contributes formal rules, sanctions, and procedural mechanisms that regulate conduct, while religion provides sacred texts, doctrinal authority, and ethical values. Morality emerges at the intersection of these domains, where religious teachings with social expectations to inform moral standards. The central overlap represents the formation of ideal norms that are legally enforceable, morally accepted, and religiously grounded, thereby serving as a foundation for social harmony and normative coherence.

To deepen the theoretical examination of the relationship between law, morality, and religion, the integration of moral principles into legal frameworks within pluralistic societies warrants careful analysis. The works of Joseph Raz are particularly influential in this regard, as his theories of authority and moral reasoning demonstrate how legal systems can incorporate moral considerations that are essential for societal coherence.¹⁰⁹ In parallel, Sayyed Hossein Nasr elucidates the role of religion in shaping moral consciousness, offering a perspective on legality that engages with the spiritual dimensions of diverse communities.¹¹⁰ Acknowledging these intellectual contributions underscores the interdependence of law, morality, and religion, thereby strengthening the article's analytical framework and aligning it with its core objectives. Integrating

¹⁰⁹ Ramiro de Àvila Peres, "Interpreting the Claim to Legitimate Authority: An Analysis of Joseph Raz's Objection Against Incorporating Moral Norms Into Law" (2019) *Ethic - An International Journal for Moral Philosophy* at 324.

¹¹⁰ Theguh Saumantri, "Construction of Religious Moderation in Seyyed Hossein Nasr's Perennial Philosophy Perspective" (2023) *Kanz Philosophia a Journal for Islamic Philosophy and Mysticism* at 96–97.

these philosophical perspectives not only reinforces the argument but also provides a robust foundation for future scholarly inquiry.

The tension between legal positivism and the incorporation of moral considerations remains a central issue in contemporary governance. Legal positivism upholds a principled separation between law and morality, asserting that legal validity derives from social conventions and established procedures rather than moral justification. This position has been strongly articulated by scholars such as Joseph Raz and H.L.A. Hart, who maintain that the existence and validity of law do not depend on moral principles and that moral reasoning is not a necessary component of judicial decision-making. Hart, in particular, emphasizes legal certainty by distinguishing descriptive inquiries into what the law is from normative questions concerning what the law ought to be, thereby reinforcing the analytical boundary between legal validity and moral evaluation.¹¹¹

However, such a strict separation between law and morality raises serious concerns regarding the legitimacy and moral authority of legal systems. Critics argue that when law is detached from moral considerations, it risks producing rules that are formally valid yet substantively unjust, thereby weakening public trust and compliance. Bellamy, for example, cautions that the absence of moral accountability can facilitate misuse of legal authority, as seen in interventions justified on humanitarian grounds that blur legal and ethical boundaries.¹¹² These critiques suggest that rigid adherence to legal positivism often fails to engage with the complex moral dilemmas inherent in governance and legal practices. At the same time, developments in contemporary legal theory have reopened debates on the integration of moral principles within law. Ronald Dworkin notably challenges the exclusivity of legal positivism by arguing that legal interpretation necessarily involves principles, many of which are moral in character, alongside formal rules.¹¹³ This position resonates with inclusive legal positivism, which maintains that incorporating moral considerations into legal frameworks does not undermine their structural integrity but can instead strengthen their capacity to

¹¹¹ Achmad Hariri, Satria Unggul Wicaksana & Samsul Arifin, “A Critical Study of Legal Positivism as a Legal System in a Pluralist Country” (2022) *Kne Social Sciences* at 566–567.

¹¹² Alex J Bellamy, “Ethics and Intervention: The ‘Humanitarian Exception’ and the Problem of Abuse in the Case of Iraq” (2004) *Journal of Peace Research* at 138–139.

¹¹³ Àvila Peres, *supra* note 109 at 323–324.

achieve justice.¹¹⁴ The resulting tension is therefore not merely theoretical, it has tangible implications for judicial decision-making, where legal rules and moral reasoning frequently converge.

This debate extends beyond theory to shape law enforcement and judicial decision-making practices. Critics of strict legal positivism, including Coleman, argue that when moral evaluations is excluded, law risks losing its normative authority and its authority to command public respect and compliance.¹¹⁵ As legal systems increasingly confront complex social challenges, such as structural injustice and inequality, calls for a more integrated approach that incorporates moral considerations into legal analysis have intensified. This shift reflects a broader societal expectation that law should function not merely as a system of formal rules but as a normative framework committed to advancing social justice and human rights.¹¹⁶ In conclusion, the ongoing tension between legal positivism and moral integration in contemporary governance underscores a critical debate about the purpose and legitimacy of law. Legal positivism's insistence on a strict separation between law and morality has come under sustained scrutiny, particularly in the face of ethical crises and growing public disillusionment with legal systems perceived as unjust. This discourse highlights the need for legal theory and practice to evolve by meaningfully engaging with moral dimensions in the pursuit of just and legitimate governance.

The separation theories advanced by Hans Kelsen and John Austin exemplify the enduring debate within legal positivism concerning the boundary between law and morality. While their approaches have been foundational to modern legal thought, they encounter significant practical challenges when applied to pluralistic societies characterized by diverse cultural, moral, and ethical commitments. This article critically examines the practical viability of Kelsen's Pure Theory of Law and Austin's legal positivism, particularly in their ability to respond to the complexities of pluralistic legal contexts. Kelsen's Pure Theory of Law advocates a strict separation of law from moral considerations, asserting that legal validity should be evaluated solely through a normative and systematic

¹¹⁴ АБ ДИДИКИН, "Inclusive Legal Positivism: Basic Arguments" (2023) *Law and State* at 9–10.

¹¹⁵ Spector, *supra* note 47.

¹¹⁶ Heru Siswanto, "Moral Position in Legal Science: An Analysis of the Dynamics of Legal Science Development" (2024) *Krtha Bhayangkara* at 281–282.

framework, independent of external influences such as ethics or morality. This position is grounded in his hierarchical model of legal norms, which outlines the validity of law in its source rather than its moral content (Hadi & Michael). However, in pluralistic societies where multiple moral systems coexist, Kelsen's framework may prove limited. Critics, including Hariri et al., argue that such a rigid separation distances law from the lived experiences of individuals who operate within overlapping and sometimes conflicting legal and moral orders.¹¹⁷ Moreover, while Kelsen's theory seeks clarity and objectivity, it risks alienating communities for whom cultural and moral values are central to their legal identity.

In contrast, John Austin's legal positivism emphasizes law as a system of commands backed by sanctions. This approach presupposes a degree of homogeneity in societal values that is rarely present in pluralistic settings. As a result, it struggles to account for the diversity of social norms and moral perspectives that shape both the implementation and acceptance of legal directives. Critics like Pino argue that by reducing law to a mechanistic structure of commands, Austin's model fails to capture the normative contestation inherent in a pluralistic society, where legal rules may reflect the interests and biases of dominant groups rather than a shared model consensus.¹¹⁸

Both Kelsen's and Austin's theories encounter significant challenges of legitimacy in pluralistic societies. Kelsen's reliance on a strictly hierarchical legal order overlooks the moral foundations that shape public perception of legal legitimacy.¹¹⁹ Critics argue that law cannot function merely as a system of formal rules detached from the moral and ethical standards of the community it governs. Similarly, Austin's marginalization of moral considerations in legal analysis risks eroding public trust, particularly when legal directives fail to resonate with widely held ethical values.¹²⁰ This gap between legal formulation and moral grounding

¹¹⁷ Hariri, Wicaksana & Arifin, *supra* note 111.

¹¹⁸ Giorgio Pino, "Positivism, Legal Validity, and the Separation of Law and Morals" (2012) SSRN Electronic Journal at 14–15.

¹¹⁹ Bakti Bakti & M Arfan Tarigan, "Law and Morality: The Hart and Fuller Debate" (2022) Syiah Kuala Law Journal at 203.

¹²⁰ Muhammad Rusydi, "Hukum Dan Moral: Mengulik Ulang Perdebatan Positivisme Hukum Dan Teori Hukum Kodrat H.L.A Hart & Lon F. Fuller" (2021) Al Wasath Jurnal Ilmu Hukum at 6.

can foster dissent and noncompliance, ultimately calling into question the capacity of both models to promote justice in diverse social contexts.

Moreover, the practical implications of these theories become especially evident in contested areas of law, such as human rights, where moral considerations play a central role in shaping legal outcomes. Resistance to laws perceived as unjust by particular social groups raises serious questions about the applicability of Kelsen's and Austin's frameworks in contexts where legal norms and moral narratives are deeply intertwined. Empirical observations suggest that laws lacking moral resonance are more likely to encounter opposition, indicating that a strictly positivist approach may be insufficient for effective governance in pluralistic societies, where moral considerations are integral to sustaining social order.¹²¹

In summary, while Hans Kelsen's Pure Theory of Law and John Austin's legal positivism have made substantial contributions to the conceptual understanding of law, their strict separation between law and morality poses significant practical challenges in pluralistic societies. The absence of an inherent moral dimension within these frameworks risks distancing law from the values and expectations of the communities it governs, thereby raising concerns about legal legitimacy. Addressing these limitations requires either a critical re-examination of classical positivist assumptions or a more nuanced integration of moral reasoning into legal theory to enhance the relevance and normative credibility of law in contemporary governance. The incorporation of moral principles into legal frameworks plays a crucial role in strengthening legal legitimacy, particularly in pluralistic societies where diverse moral perspectives coexist. Tyler and Jackson argue that legitimacy grounded in moral alignment not only encourages compliance but also reinforces the credibility of legal institutions.¹²² The perception that laws are morally justified fosters a sense of obligation among individuals, creating a reciprocal relationship between legal authority and the citizens it governs. Their empirical research demonstrates that public trust in legal institutions is significantly shaped by beliefs about the moral purposes of laws

¹²¹ Paolo Sandro, "Unlocking Legal Validity: Some Remarks on the Artificial Ontology of Law" (2018) at 112–113.

¹²² Jonathan Jackson et al, "Why Do People Comply With the Law?: Legitimacy and the Influence of Legal Institutions" (2012) *The British Journal of Criminology* at 1056–1057.

and the conduct of those who enforce them.¹²³ When legal authorities, such as the police, judiciary, or legislators, are perceived as acting in accordance with shared moral values, public trust rises, leading to higher levels of compliance and cooperation. This indicates that legal legitimacy extends beyond procedural correctness and is deeply intertwined with the ethical dimensions of law enforcement and judicial decision-making. Similarly, Murphy et al. emphasize that individual moral reasoning is a powerful driver of compliance, often surpassing legitimacy derived from procedural justice alone.¹²⁴ This finding supports the view that individuals are more likely to follow laws that resonate with their moral identity, underscoring the necessity of moral integration within legal frameworks. A legal system that reflects the prevailing moral values of its constituents is therefore better positioned to cultivate a durable sense of obligation and sustain its legitimacy.

Jackson et al. further argue that legal legitimacy depends not only on the distribution of power between the state and its citizens but also on the extent to which that power is justified by shared moral purposes.¹²⁵ Their findings support a more nuanced understanding of legitimacy that includes moral and ethical dimensions, an approach that is particularly salient in pluralistic contexts. In contexts marked by significant moral diversity, grounding legal authority in broadly shared moral values can help reduce conflict and strengthen the social compact that underpins the rule of law. The connection between moral legitimacy and social cooperation is also central to Tyler's procedural justice model, which demonstrates that fair and transparent decision-making processes foster higher levels of public compliance.¹²⁶ This model underscores how perceptions of fairness and moral integrity among legal authorities enhance citizens' willingness to accept and follow legal mandates. When authorities are seen as acting both justly and ethically, their legitimacy is reinforced, contributing to more effective and sustainable governance. In summary, integrating moral considerations into legal frameworks is essential for strengthening legal legitimacy, especially in pluralistic societies. Empirical research consistently indicates a strong relationship

¹²³ Jackson et al, *supra* note 122.

¹²⁴ Kristina Murphy, Ben Bradford & Jonathan Jackson, "Motivating Compliance Behavior Among Offenders" (2015) *Criminal Justice and Behavior* at 109.

¹²⁵ Jackson et al, *supra* note 122.

¹²⁶ *Ibid.*

between perceptions of moral legitimacy and compliance with legal norms. Accordingly, embedding moral integration within law can promote institutional trust and support a more stable and cooperative legal order.

The argument that justice requires more than majority approval aligns with approaches that integrate universal principles of justice into law rather than grounding legitimacy in social conformity alone.¹²⁷ A legitimate legal system must remain accountable to human dignity and resist oppression by aligning legal norms with universal ethical standards, rather than relying solely on popular acceptance.¹²⁸ Drawing on these perspectives, theories of moral development, particularly those associated with Kohlbergian ethics, support a framework in which law engages with moral principles instead of merely reflecting prevailing opinion.¹²⁹ Philosophical analyses further suggest that legal authority derives from fidelity to justice and moral reasoning, rather than from consensus alone, a position that carries particular weight in pluralistic societies. Consequently, debates on the relationship between law, morality, and religion should foreground universal justice as the normative foundation of legal systems, while treating religious or doctrinal traditions as influential contexts for moral reasoning rather than as direct sources of legal validity.¹³⁰

III. CONCLUSION

Integrating morality into law is essential for legal systems that are not only procedurally valid but also morally legitimate. This research demonstrates that a rigid separation between law and morality advanced by classical legal positivists like Hans Kelsen and John Austin is increasingly inadequate for addressing the realities of pluralistic societies. Legal norms that fail to engage with shared moral values risk eroding public trust and legitimacy, ultimately weakening compliance and undermining social cohesion.

¹²⁷ Qing Wang, “Analysis of the Relationship Between Law and Morality” (2022) *Academic Journal of Humanities & Social Sciences* at 259–260.

¹²⁸ Wang, *supra* note 127.

¹²⁹ Suryadi Winata, Tan Salikim & Andy Andy, “Phenomenon of the First Stage Kohlberg’s Theorem in Accounting Lecturer’s Ethical Decision Making” (2020) at 4–5.

¹³⁰ Saumantri, *supra* note 110.

Legal legitimacy cannot rest solely on social acceptance or procedural compliance, as widespread adherence to legal norms does not necessarily reflect substantive justice. Justice must be understood as an intrinsic element of law rather than a product of collective approval. Accordingly, the rigid separation between law and morality advanced by classical legal positivists, including Hans Kelsen and John Austin, is insufficient to address the moral and cultural complexities inherent in pluralistic societies.

In such contexts, including Indonesia, the integration of moral reasoning into legal structures must be concretely institutionalized through fair and inclusive regulatory frameworks. Law should not merely recognize moral plurality but actively translate universal ethical principles, such as justice, human dignity, and equality, into the formulation, interpretation, and enforcement of legal norms. Achieving this goal requires participatory and transparent legal processes that respect cultural diversity while upholding the universality of justice.

Accordingly, this study underscores that the legitimacy of law must be grounded in moral accountability and ethical coherence, rather than resting solely on procedural or formal validity. The dynamic interaction between legal norms, moral values, and societal expectations should therefore be institutionalized within legal frameworks to ensure that law functions not only as a system of rules but also as a moral guide. Such integration is essential for fostering a just, legitimate, and socially responsive legal order capable of sustaining harmony and protecting human rights in pluralistic societies.

ACKNOWLEDGMENTS

None.

COMPETING INTEREST

None.

REFERENCES

- Aechtner, Thomas, “Galileo Still Goes To Jail: Conflict Model Persistence Within Introductory Anthropology Materials” (2015) 50:1 Zygon.
- Ahmad Fanani & Muhammad Sulthon Zulkarnain, “Understanding John Austin’s Legal Positivism Theory and Hans Kelsen’s Pure Legal Theory” (2022) 1:2 Peradaban Journal of Law and Society.
- Alexy, Robert, “On the Concept and the Nature of Law” (2008) 21:3 Ratio Juris.
- Alistar (Hírlav), Emima, “The Relation Between Law and Morality” (2019) SSRN Electronic Journal.
- Anderson, Elizabeth, “The Epistemology of Justice” (2020) 58:1 The Southern Journal of Philosophy.
- Andriychuk, Oles, “Exclusive Legal Positivism and Legal Autopoiesis: Towards a Theory of Dialectical Positivism” (2015) 46:1 Rechtstheorie.
- Arvanitis, Alexios & Konstantinos Kalliris, “Consistency and moral integrity: A self-determination theory perspective” (2020) 49:3 Journal of Moral Education.
- Àvila Peres, Ramiro de, “Interpreting the Claim to Legitimate Authority: An Analysis of Joseph Raz’s Objection Against Incorporating Moral Norms Into Law” (2019) Ethic - An International Journal for Moral Philosophy.
- Awudja, Joseph Cudjoe et al, “Public Attitudes towards Death Penalty Provisions: Relevance of Ethico-Phenomenological Principles in the Operation of Articles 3 (3) & 19 (2) of the 1992 Republican Constitution of Ghana” (2021) 09:12 JSS.
- Bakti, Bakti & M Arfan Tarigan, “Law and Morality: The Hart and Fuller Debate” (2022) Syiah Kuala Law Journal.
- Banović, Damir, “About John Austin’s analytical jurisprudence: The empirical-rationalist legal positivism¹” (2021) 21:1 International and Comparative Law Review.
- Barak-Corren, Netta & Max H Bazerman, “Is saving lives your task or God’s? Religiosity, belief in god, and moral judgment” (2017) 12:3 Judgm decis mak.

- Batson, C Daniel et al, "Immorality from empathy-induced altruism: When compassion and justice conflict." (1995) 68:6 *Journal of Personality and Social Psychology*.
- Bellamy, Alex J, "Ethics and Intervention: The 'Humanitarian Exception' and the Problem of Abuse in the Case of Iraq" (2004) *Journal of Peace Research*.
- Berggren, Niclas, "Legal positivism and property rights: a critique of Hayek and Peczenik" (2006) 17:3 *Constitutional Political Economy*.
- Bernstorff, Jochen von, *The Public International Law Theory of Hans Kelsen* (Cambridge University Press, 2010).
- Beyerlein, Kraig, Sarah A Soule & Nancy Martin, "Prayers, Protest, and Police: How Religion Influences Police Presence at Collective Action Events in the United States, 1960 to 1995" (2015) 80:6 *Am Sociol Rev*.
- Bix, Brian H, "John Austin and Constructing Theories of Law" (2011) 24:2 *Canadian Journal of Law & Jurisprudence*.
- Bolton, Matthew, "Three theories of separation: Kelsen, Schmitt and Pashukanis and the historical development of the legal form" (2024) 50:10 *Philosophy & Social Criticism*.
- Chen, Fang-Pei, "Field Equations and Conservation Laws Derived from the Generalized Einstein's Lagrangian Density for a Gravitational System and Their Influences upon Cosmology" (2008) 47:2 *International Journal of Theoretical Physics*.
- Coleman, Jules L, "Beyond the separability thesis: Moral semantics and the methodology of jurisprudence" (2007) 27:4 *Oxford Journal of Legal Studies*.
- Cyr, Hugo, "Functional and Existential Authorities" (2015) 28:2 *Canadian Journal of Law & Jurisprudence*.
- Dempsey, Ronald P, Elizabeth E Eskander & Veljko Dubljević, "Ethical Decision-Making in Law Enforcement: A Scoping Review" (2023) 5:2 *Psych*.
- Dimiyati, Khudzaifah, *Hukum dan Moral Basic Epistemologi Paradigma Rasional H.L.A. Hart* (Yogyakarta: Genta Publishing, 2017).

- Dion, Michel, “Is money laundering an ethical issue?” (2015) 18:4 *Journal of Money Laundering Control*.
- Dyzenhaus, David, “Austin, Hobbes, and Dicey” (2011) 24:2 *Canadian Journal of Law & Jurisprudence*.
- Ellwood, Charles A, “Religion and Social Control” in *The Vitality of Karamojong Religion* (Routledge, 2017).
- Englard, Izhak, “Law, Religion, and the Rule of Law from a Normative-Positivist Perspective” (2017) 5:3 *Journal of Law, Religion and State*.
- Fisher, Aled Dilwyn, “Legal Pluralism and Human Rights in the Idea of Climate Justice” (2016) 2:3 *OLR*.
- Freeman, Samuel, “The burdens of public justification: constructivism, contractualism, and publicity” (2007) 6:1 *Politics, Philosophy & Economics*.
- Gao, Jingkang & Jinhua Zhao, “Legitimacy versus morality: Why do the Chinese obey the law?” (2018) 42:2 *Law and Human Behavior*.
- Gostin, Lawrence O et al, “The World Health Organization was born as a normative agency: Seventy-five years of global health law under WHO governance” (2024) 4:4 *PLOS Glob Public Health*.
- Grosfeld, Eva, Daan Scheepers & Armin Cuyvers, “Mapping the moral foundations of the European Union: Why a lack of moral diversity may undermine perceived EU legitimacy” (2024) 3:8 *PNAS Nexus*.
- Gur, Noam & Jonathan Jackson, “Procedure-content interaction in attitudes to law and in the value of the rule of law: An empirical and philosophical collaboration” (2020) *Procedural Justice and Relational Theory: Empirical, Philosophical, and Legal Perspectives*.
- Hans Kelsen, *Teori Hukum Murni Dasar-Dasar Ilmu Hukum Normatif* (Bandung: Nusa Media, 2015).
- Hæusler, Edward Hermann & Alexandre Rademaker, “On How Kelsenian Jurisprudence and Intuitionistic Logic Help to Avoid Contrary-to-Duty Paradoxes in Legal Ontologies” (2019).

- Hariri, Achmad, Satria Unggul Wicaksana & Samsul Arifin, “A Critical Study of Legal Positivism as a Legal System in a Pluralist Country” (2022) *Kne Social Sciences*.
- Heidemann, Carsten, *Hans Kelsen’s Normativism* (Cambridge University Press, 2022).
- Huemer, Michael, “A liberal realist answer to debunking skeptics: the empirical case for realism” (2016) 173:7 *Philosophical Studies*.
- Huijbers, Theo, *Filsafat Hukum* (Yogyakarta: Kanisius, 1995).
- Jackson, Jonathan et al, “Why Do People Comply With the Law?: Legitimacy and the Influence of Legal Institutions” (2012) *The British Journal of Criminology*.
- Jimly Asshiddiqie dan M Ali Safa’at, *Teori Hans Kelsen Tentang Hukum* (Jakarta: Konstitusi Press (Konpress), 2012).
- Joao, Susan, *Regulating the diseased society: power and moral regulation in public health discourse* Carleton University, 2007).
- Kelsen, Hans, “On The Pure Theory of Law” (1966) 1:1 *Isr law rev.*
- Kelsen, Hans, *General Theory of Norms* (Oxford: Clarendon Press, 1991).
- , *Reine Rechtslehre - Studienausgabe der 2. Auflage 1960* (Verlag Österreich, 2017).
- Klatt, Matthias, “Integrative Jurisprudence: Legal Scholarship and the Triadic Nature of Law” (2020) 33:4 *Ratio Juris*.
- Kohlberg, Lawrence & Clark Power, “Moral Development, Religious Thinking, And The Question Of A Seventh Stage” (1981) 16:3 *Zygon*.
- Krešić, Mario, “About Non-Positivist Perspective on Legal Values in International Law” (2020) 4:2 *Bratislava Law Review*.
- "Law College of Kashkadarya region " & Sanjar Amirov, “Theory Of Natural Law And Its Essence” (2024) 4:4 *Jurisprudence*.
- Legrand, Pierre, “European Legal Systems are not Converging” (1996) 45:1 *International and Comparative Law Quarterly*.

- Li, Jessica C M et al, "Police legitimacy and procedural justice for children and youth: a scoping review of definitions, determinants, and consequences" (2024) 9 Front Sociol.
- Mahlmann, Matthias, *Mind and Rights: The History, Ethics, Law and Psychology of Human Rights*, 1st edn (Cambridge University Press, 2023).
- Morgan, G Scott, Linda J Skitka & Daniel C Wisneski, "Moral and Religious Convictions and Intentions to Vote in the 2008 Presidential Election" (2010) 10:1 Anal Soc Iss & Public Policy.
- Murphy, Kristina, Ben Bradford & Jonathan Jackson, "Motivating Compliance Behavior Among Offenders" (2015) Criminal Justice and Behavior.
- Norenzayan, Ara & Azim F Shariff, "The Origin and Evolution of Religious Prosociality" (2008) 322:5898 Science.
- Oliveira-Castro, Jorge M & Julio Cesar De Aguiar, "Behavioral Analysis of Law: An Operant Interpretation of Legal Systems" (2020) 11:1 Perspectivas em Análise do Comportamento.
- Orakhelashvili, Alexander, "The essence and basic methods of the pure theory" in *Domesticating Kelsen* (Edward Elgar Publishing, 2019).
- Paulson, Stanley L, "The Purity Thesis" (2018) 31:3 Ratio Juris.
- Perry, Michael J, "Religion as a basis of law-making?: Herein of the non-establishment of religion" (2009) 35:1–2 Philosophy & Social Criticism.
- Perry, Stephen R, "Hart's Methodological Positivism" in *Hart's Postscript Essays on the Postscript to 'The Concept of Law'* (Oxford University Press, 2001).
- Petersen, Thomas Søbirk, "New Legal Moralism: Some Strengths and Challenges" (2010) 4:2 Criminal Law and Philosophy.
- Piazza, Jared & Justin F Landy, "'Lean not on your own understanding': Belief that morality is founded on divine authority and non-utilitarian moral judgments" (2013) 8:6 Judgm decis mak.
- Pino, Giorgio, "Positivism, Legal Validity, and the Separation of Law and Morals" (2012) SSRN Electronic Journal.

- , “Positivism, Legal Validity, and the Separation of Law and Morals” (2014) 27:2 *Ratio Juris*.
- Pinzauti, Piero, “The Autonomy of Morality from Religion. The End of Religion and of Relativism. Howard Mounce on Peter Winch” (2012) 35:2 *Philosophical Investigations*.
- Putra, Yagie, Pujiyono Pujiyono & Joko Setiyono, “Dialectic Between Law and Morals in Examining Corruption Cases and Law Enforcement in Indonesia” (2023).
- Qudah, Mouaid Al, “The Moral Foundations of Criminal Liability” (2014) 2:3 *Intellectual Property Rights: Open Access*.
- Rahmaningsih, Aziza Aziz & Retanisa Rizqi, “Agama dan Moral dalam Pembentukan Substansi dan Struktur Hukum” (2022) 2:2 *As-Siyasi J Const Law*.
- Rahardjo, Satjipto, *Ilmu Hukum* (Bandung: Alumni, 1985).
- Raharjo, Satjipto, *Hukum dan Masyarakat* (Bandung: Angkasa, 1984).
- Raz, Joseph, “About morality and the nature of law” (2017) *Law and Morality*.
- Rijkema, Peter, “The inevitability of moral evaluation” (2011) 24:4 *Ratio Juris*.
- Rusydi, Muhammad, “Hukum Dan Moral: Mengulik Ulang Perdebatan Positivisme Hukum Dan Teori Hukum Kodrat H.L.A Hart & Lon F. Fuller” (2021) *Al Wasath Jurnal Ilmu Hukum*.
- Sahoo, Subhasis, “Recast(e)ing Scientific Temper in a Democracy: The Eccentricities of Ambedkarian Science” (2020) 69:2 *Sociological Bulletin*.
- Sandro, Paolo, “Unlocking Legal Validity: Some Remarks on the Artificial Ontology of Law” (2018).
- Saumantri, Theguh, “Construction of Religious Moderation in Seyyed Hossein Nasr’s Perennial Philosophy Perspective” (2023) *Kanz Philosophia a Journal for Islamic Philosophy and Mysticism*.
- Sinaga, Hasanuddin, *Pengantar Studi Akhlak* (Jakarta: PT. Raja Grafindo Persada, 2004).

- Schauer, Frederick, "Positivism Before Hart" (2011) 24:2 *Canadian Journal of Law & Jurisprudence*.
- Schauer, Frederick, "Was Austin Right After All? On the Role of Sanctions in a Theory of Law" (2010) 23:1 *Ratio Juris*.
- Schwadel, Philip et al, "The values of religious nones, donees, and sacralized Americans: Links between changes in religious affiliation and Schwartz values" (2021) 89:5 *Journal of Personality*.
- Serfiyani, Citi Rahmati et al, "Developers' Data Protection in the Open-Source Application with the Copyleft License" (2021) 8:1 *eJLH*.
- SHAPIRO, SCOTT J, "Was Inclusive Legal Positivism Founded on a Mistake?" (2009) 22:3 *Ratio Juris*.
- Silver, Jasmine R, "Binding Morality and Perceived Harm as Sources of Moral Regulation Law Support Among Political and Religious Conservatives" (2020) 54:3 *Law Soc Rev*.
- Sistyawan, Dwanda Julisa et al, "the Development of Positivism'S Legal Theory: From Bentham To Hart" (2024) 9:2 *Petita: Jurnal Kajian Ilmu Hukum dan Syariah*.
- Siswanto, Heru, "Moral Position in Legal Science: An Analysis of the Dynamics of Legal Science Development" (2024) *Krtha Bhayangkara*.
- Sobolev, Daphne & Niklas Voegelé, "Consumer Judgment of Morally-Questionable Behaviors: The Relationship Between Ethical and Legal Judgments" (2020) 165:1 *Journal of Business Ethics*.
- Sodi, Tholene, Diphete Bopape & Mpsanyana Makgahlela, "Botho as an essential ingredient of African psychology: an insider perspective" (2021) 51:3 *South African Journal of Psychology*.
- Spaak, Torben, "Kelsen's Metaethics" (2022) 35:2 *Ratio Juris*.
- Spector, Horacio, "A Pragmatic Reconstruction of Law's Claim to Authority" (2019) 32:1 *Ratio Juris*.
- Subiharta, Subiharta, "Moralitas Hukum Dalam Hukum Praksis Sebagai Suatu Keutamaan" (2015) 4:3 *Jurnal Hukum dan Peradilan*.

Suwito et al, “Contemplating the Morality of Law Enforcement in Indonesia” (2023) 11:10 Journal of Law and Sustainable Development.

Tanya, Yovita A Mangesti dan Bernard L, *Moralitas Hukum* (Yogyakarta: Genta Publishing, 2014).

Teymoori, Ali, Arash Heydari & Hedayat Nasiri, “Relationship between dimensions of religiosity, authoritarianism, and moral authority” (2014) 61:1 Social Compass.

Thaysen, Jens Damgaard, “Defining Legal Moralism” (2015) 16:2 Sats.

Tyler, Tom R, Stephen Schulhofer & Aziz Z Huq, “Legitimacy and Deterrence Effects in Counterterrorism Policing: A Study of Muslim Americans” (2010) 44:2 Law Soc Rev.

Wang, Qing, “Analysis of the Relationship Between Law and Morality” (2022) Academic Journal of Humanities & Social Sciences.

Winata, Suryadi, Tan Salikim & Andy Andy, “Phenomenon of the First Stage Kohlberg’s Theorem in Accounting Lecturer’s Ethical Decision Making” (2020).

Yamamoto, Arata, “From value to meaning: Exploring the ethical basis of Chantal Mouffe’s agonistic pluralism” (2020) 19:2 Planning Theory.

Yilmaz, Onurcan et al, “Intergroup tolerance leads to subjective morality, which in turn is associated with (but does not lead to) reduced religiosity” (2020) 42:2 Archive for the Psychology of Religion.

Yu, Xuekun, “On the Relationship between Law and Morality: From the Perspective of Evil Law is Illegal or Evil Law is Also Law” (2023) 3:2 JEER.

Zhang, Ni & Zixuan Zhang, “The application of cognitive neuroscience to judicial models: recent progress and trends” (2023) 17 Frontiers in Neuroscience.

ДИДИКИН, АБ, “Inclusive Legal Positivism: Basic Arguments” (2023) Law and State.

———, “Inclusive legal positivism: Basic arguments” (2023) 3:100 las.