This chapter explores the works of some of the leading exponents of contemporary legal positivism: HLA Hart, Hans Kelsen, Joseph Raz, Jules Coleman, Scott Shapiro, and others. Hart staked out the borders of modern legal theory by applying the techniques of analytical (and especially linguistic) philosophy to the study of law. Kelsen may be the least understood and most misrepresented of all legal theorists. To the extent that he insisted on the separation of law and morals, what ‘is’ (sein) and what ‘ought to be’ (sollen), Kelsen may legitimately be characterized as a legal positivist, but he is a good deal more. Raz argues that the identity and existence of a legal system may be tested by reference to three elements: efficacy, institutional character, and sources. Thus, law is autonomous: we can identify its content without recourse to morality.
4. Modern legal positivism

Access to the complete content on Law Trove requires a subscription or purchase. Public users are able to search the site and view the abstracts and keywords for each book and chapter without a subscription.

Please subscribe or login to access full text content.

If you have purchased a print title that contains an access code, please see the information provided with the code or instructions printed within the title for information about how to register your code.

For questions on access or troubleshooting, please check our FAQs, and if you can't find the answer there, please contact us.