

# The Discourse Regarding the United States Legal System's Determinacy

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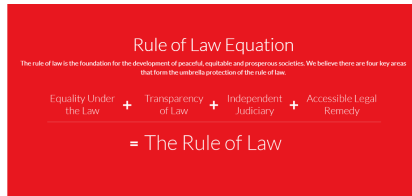
Political Science Major

Pre-law Track

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# This presentation focuses on the ongoing debate US legal scholars and legislators participate in about the indeterminacy of the law.



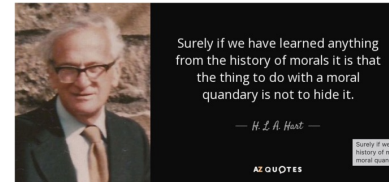
<https://www.lexisnexis.com/community/insights/b/blog/posts/populism-and-the-rule-of-law>

Hasnas



<https://guardian.ng/features/law/duty-of-court-to-give-a-holistic-interpretation-to-a-statute-as-required-by-law/>

Dworkin



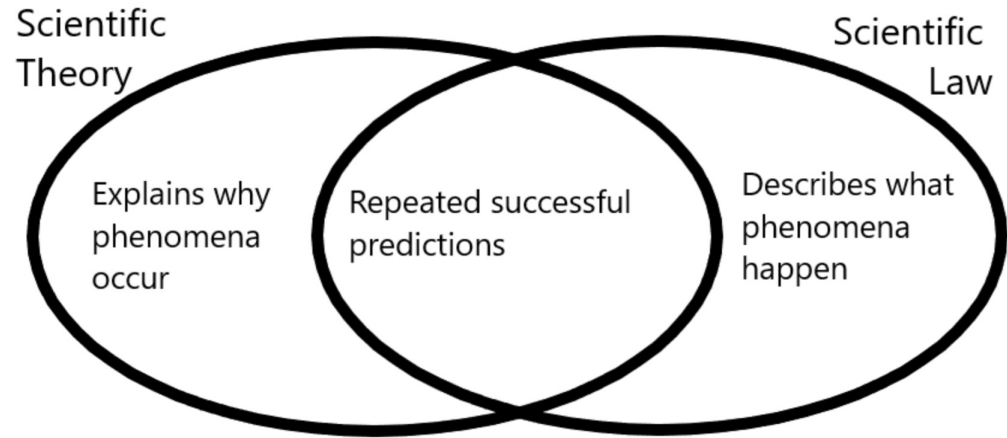
<https://www.azquotes.com/quote/695757>

Hart

# The basis of the US legal systems stands on legal reasoning, which triggers push back in unclear situations.

**Empirical Reasoning vs. Legal Reasoning**

**Indeterminacy: the state of not being measured, counted, or clearly known**



# Four elements compose legal reasoning.

1. Case facts
2. Social background facts
3. Rules of law
4. Widely shared values

# John Hasnas claims the rule of law is a myth.

## Rule of Law Equation

The rule of law is the foundation for the development of peaceful, equitable and prosperous societies. We believe there are four key areas that form the umbrella protection of the rule of law.

Equality Under  
the Law + Transparency  
of Law + Independent  
Judiciary + Accessible Legal  
Remedy

= The Rule of Law



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<https://commons.wikimedia.org/w/index.php?curid=71374433>

**Hasnas** theorizes the law is inherently indeterminate and judge made.

**Argument:** one expresses the law using language. Language is inherently vague and up to interpretation.

**Ronald Dworkin** holds a legal holism perspective, one opposite of Hasnas.

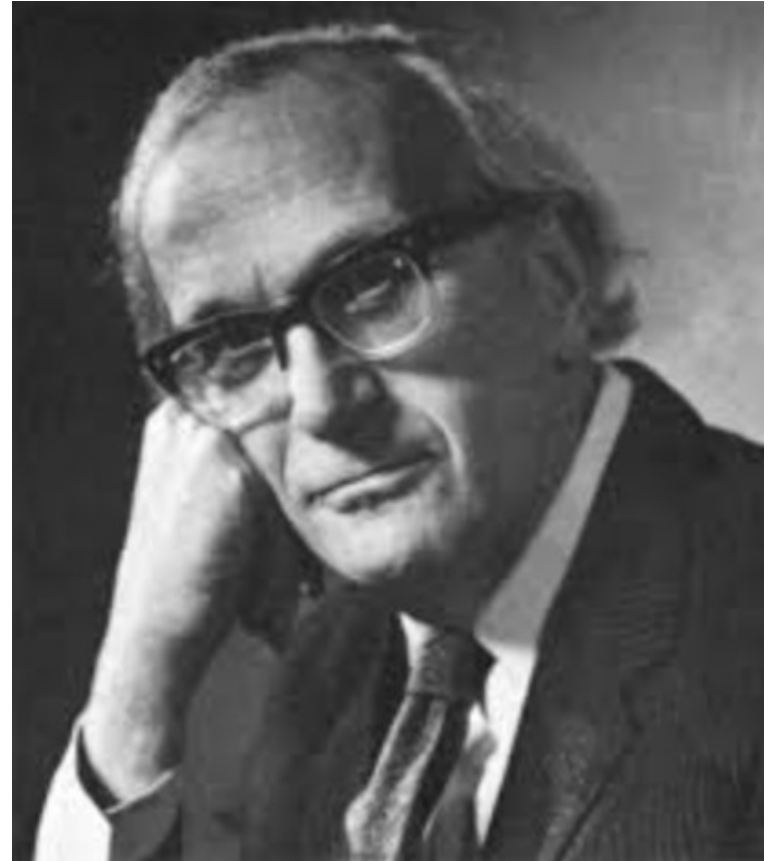


<https://www.nytimes.com/2013/02/15/us/ronald-dworkin-legal-philosopher-dies-at-81.html>

**H.L.A. Hart's** perspective falls in between Hasnas and Dworkin and may be considered a positivist perspective.

### **Hart's "Nightmare and the Noble Dream"**

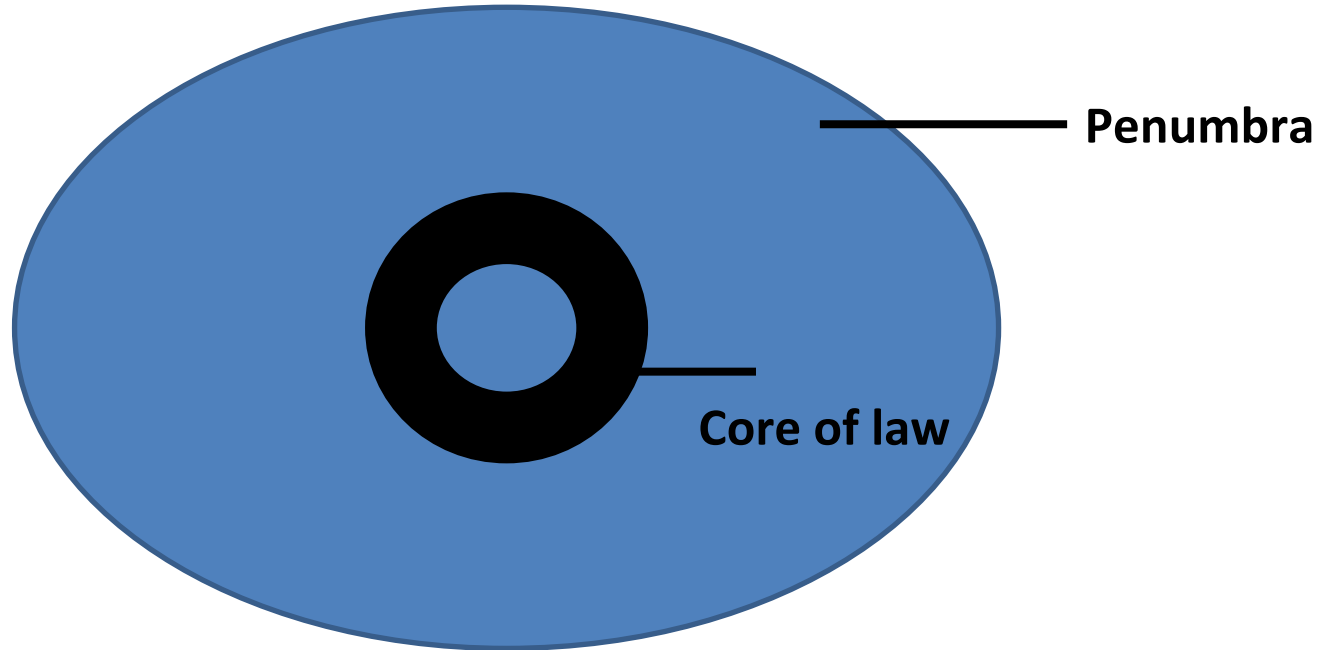
- The law can fall under two possibilities



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**The penumbra concept originates from the positivist legal approach and relates to Hart's ideology.**



# The ideology spectrum

Hasnas

Hart

Dworkin

