



## Qué es una teoría realista del derecho? [

2022

text (article)

Analítica

A "realist theory of law" has two elements: "realism" and "naturalism." Realism in the tradition associated with Thucydides, Machiavelli, and Nietzsche aims to describe how things really are without romantic or moralizing illusions; in the legal case, we want to know what law and legal institutions are like, not what we might wish them to be. Realists do not suppose that the way things will make "moral sense" or turn out to be morally defensible. Naturalists offer explanations of legal phenomena that only invoke entities and mechanisms that figure in successful empirical sciences; naturalists, importantly, are not physicalists. Realism and naturalism about law, in the preceding senses, lead us to Hart's positivism about legal validity; the thesis that legal reasoning under-determines judicial decision in some range of cases; the recognition that law operates primarily outside courts; and skepticism about natural law theories as ideological delusions

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