



Revisiting Austin's Command Theory in the Context of Contemporary Constitutional Democracies

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ABSTRACT :

This paper revisits *John Austin's Command Theory of Law* in the light of contemporary constitutional democracies, highlighting both its enduring contributions and critical limitations. Austin's framework, which defines law as the command of a sovereign backed by sanctions, laid the groundwork for *legal positivism* in the 19th century, offering analytical clarity by separating law from morality. While aspects of his theory remain relevant in limited contexts such as *administrative law* and *emergency powers*, it proves inadequate for explaining the complexities of modern legal orders.

Constitutional democracies rest on principles such as the *supremacy of the constitution*, *separation of powers*, *judicial review*, *fundamental rights*, and *popular sovereignty*, all of which diffuse authority and constrain coercive power. These features challenge Austin's conception of an indivisible sovereign and highlight the shift from coercion to *consent and legitimacy* as the foundation of law. Critical engagements from H.L.A. Hart, with his distinction between *primary and secondary rules*, and Hans Kelsen's *Pure Theory of Law* further demonstrate the insufficiency of Austin's framework.

The study concludes that while Austin's ideas remain a historical cornerstone of jurisprudence, modern constitutionalism has transformed legal authority into a system that balances *positivist clarity* with *constitutional morality*, ensuring that law reflects both authority and justice.

Keywords: Austin's Command Theory, Legal Positivism, Analytical Jurisprudence, Sovereignty, Indivisible Sovereign, Separation of Powers

Introduction

John Austin (1790–1859), a leading figure of legal positivism, developed the *Command Theory of Law* in his seminal work *The Province of Jurisprudence Determined* (1832). He sought to establish law as a science by separating it from morality, religion, and custom. According to Austin, *law is the command of a sovereign backed by sanctions*, and citizens are obliged to obey due to fear of punishment. The sovereign, being habitually obeyed by the majority, owes obedience to none, making sovereignty absolute and indivisible. Austin's approach emphasized the coercive nature of law and provided a clear analytical framework to distinguish legal rules from other forms of norms. Though influential in shaping early jurisprudence, the theory has been criticized for oversimplifying law by ignoring constitutional limits, rights, and democratic legitimacy. Nevertheless, Austin's framework remains foundational in debates on legal positivism and the nature of legal authority.

In the 19th century, legal positivism emerged as a dominant school of thought, aiming to provide a **scientific and systematic understanding of law**. Thinkers like John Austin emphasized that law should be studied as it is, not as it ought to be, thereby separating law from morality and religion. This approach was particularly relevant in an era marked by political upheavals, codification movements, and the rise of nation-states, which required clarity and certainty in legal systems. Legal positivism offered a rational, objective framework to define law as state-made rules, ensuring uniformity, predictability, and authority in governance.

Austin's Command Theory, with its emphasis on the sovereign's absolute authority, faces challenges in *constitutional democracies* where power is diffused and limited. In such systems, sovereignty lies not in a single ruler but in the *Constitution*, which embodies popular will, separation of powers, and fundamental rights. Judicial review, federalism, and constitutional supremacy further restrict legislative commands, making Austin's notion of an indivisible sovereign inadequate. However, aspects of Austin's theory remain relevant in highlighting the *coercive force of law* and the necessity of sanctions. Yet, constitutional democracies demand a broader conception of law rooted in legitimacy, consent, and justice.

Foundations of Austin's Command Theory

2.1 Command, Sovereign, Duty, Sanction.

Austin's Command Theory rests on four central concepts: *command*, *sovereign*, *duty*, and *sanction*. A *command* is an expression of the sovereign's will, requiring subjects to perform or abstain from certain acts. The *sovereign* is a determinate authority habitually obeyed by the majority, yet not subject to any higher power. From the command arises a *duty*, which denotes the obligation of subjects to comply with the sovereign's directives. To ensure obedience, the sovereign enforces *sanctions*, i.e., penalties or consequences imposed upon disobedience. Together, these concepts

define law as the sovereign's coercive command, distinguishing it from morality or custom.

2.2 Austin's understanding of sovereignty.

John Austin's theory places *sovereignty* at the core of his jurisprudence. For Austin, sovereignty is the ultimate source of law within a political society. The sovereign is a determinate and identifiable authority—whether an individual or a body of persons—who is *habitually obeyed by the majority* of the people, while not habitually obeying any other earthly authority. This makes sovereignty both *absolute and indivisible*, as there cannot be competing or divided sources of supreme power. Sovereignty issues commands, which create legal duties, and its authority is reinforced by the threat of sanctions. Austin rejected the notion of popular or moral limits on sovereignty, arguing that such considerations belong to ethics or politics, not law. By grounding law in the commands of a sovereign, Austin sought to provide clarity and scientific precision in defining law. However, this rigid conception becomes problematic in modern constitutional democracies where power is dispersed and limited.

2.3 Analytical positivism and separation of law from morality.

Analytical positivism, as advanced by John Austin in the 19th century, represents an effort to study law in a purely scientific and systematic manner. Austin rejected speculative or moralistic approaches to law and instead sought to define it in terms of observable social facts. According to his formulation, law is the command of the sovereign, backed by sanctions, and distinct from other forms of norms such as customs, religion, or moral values. This analytical method emphasized clarity, precision, and logical classification of legal concepts. It provided a framework for understanding law as a man-made phenomenon created by political authority, rather than as an expression of divine will or natural justice. In doing so, Austin established the foundations of legal positivism, which became the dominant school of jurisprudence during the 19th century.

Central to analytical positivism is the *separation of law and morality*, a theme later echoed by H.L.A. Hart. Austin argued that while moral values may influence the content of laws, they are not part of the legal system itself. For him, law should be studied "as it is" rather than "as it ought to be." A law remains valid so long as it is issued by the sovereign authority and enforced through sanctions, regardless of whether it is just or unjust. By excluding morality from the definition of law, Austin sought to shield jurisprudence from subjective moral debates and provide an objective framework for legal analysis. This separation was also significant in the context of 19th-century codification movements, as it allowed law to be conceptualized in terms of authoritative rules, not fluctuating ethical standards.

However, the strict separation of law from morality has been the subject of criticism. Critics argue that laws cannot be entirely divorced from moral considerations, especially in constitutional democracies where principles of justice, rights, and human dignity are embedded in the legal framework. Thinkers like Ronald Dworkin rejected Austin's positivist stance, emphasizing that legal interpretation inherently involves moral reasoning. Nevertheless, analytical positivism retains relevance by highlighting the need for objectivity and consistency in identifying legal rules. It clarified that legal validity depends on *sources*, not moral worth. While inadequate in explaining complex constitutional and rights-based systems, Austin's separation of law from morality remains a pivotal step in shaping modern jurisprudence and continues to influence debates on the nature and limits of law.

2.4 Early criticisms and limitations.

Austin's Command Theory, though influential in shaping legal positivism, attracted early criticisms for its *overly rigid and simplistic view of law*. One major limitation was its assumption of an *absolute and indivisible sovereign*, which failed to reflect constitutional governments, federal systems, or institutions with divided powers. Critics argued that Austin reduced law to mere *commands backed by sanctions*, ignoring laws that confer rights or powers, such as those governing contracts or constitutional provisions. His framework also disregarded *customary laws* and the evolving role of judicial decisions as authoritative sources of law. Furthermore, by insisting on a strict *separation of law and morality*, Austin's theory overlooked the moral foundations that influence the legitimacy of legal systems. Thinkers such as Maine and later Hart criticized the model as inadequate for explaining modern, complex societies, where law functions not only as coercion but also as an instrument of justice, consent, and governance.

Critiques of Austin's Theory

3.1 Hart's distinction between primary and secondary rules.

Austin's Command Theory has been widely criticized for its narrow and coercive understanding of law. By defining law merely as the sovereign's command backed by sanctions, Austin overlooked the *complexity of modern legal systems*, which include laws that grant powers, recognize rights, and establish institutions. His assumption of a *single, absolute sovereign* was also seen as unrealistic in constitutional democracies where power is limited, divided, and subject to checks and balances. Moreover, Austin's strict separation of law from morality was challenged as inadequate for explaining the legitimacy of legal authority in democratic societies.

H.L.A. Hart, a leading positivist, offered a more nuanced framework through his theory of *primary and secondary rules*. According to Hart, *primary rules* impose duties by regulating human conduct, while *secondary rules* are rules about rules—they provide methods for creating, modifying, and adjudicating primary rules. Secondary rules, such as rules of recognition, change, and adjudication, ensure stability, flexibility, and certainty in the legal system. This distinction addressed Austin's limitations by showing that law is not simply commands enforced by threats, but a structured system combining duty-imposing and power-conferring rules. Hart's model thus refined positivism, making it better suited to describe modern constitutional legal orders.

3.2 Kelsen's Pure Theory of Law and the Grundnorm.

Hans Kelsen's *Pure Theory of Law* presents a significant critique of Austin's Command Theory. While Austin defined law as the command of a sovereign backed by sanctions, Kelsen rejected this coercive and person-centered approach. For Kelsen, law is not merely the will of a sovereign but a *hierarchical system of norms*, where each norm derives its validity from a higher one. At the apex of this hierarchy lies the *Grundnorm* or "basic norm," an assumed foundational rule that gives legitimacy to the entire legal order. Unlike Austin's sovereign, the Grundnorm is not a person or authority but a presupposed legal principle that sustains the validity of laws.

This framework highlighted a major limitation of Austin's theory: its inability to explain legal continuity when sovereigns change, or to account for power-conferring rules such as those enabling legislation or contracts. By focusing on norms rather than commands, Kelsen provided a more abstract, universal, and internally coherent account of law. His theory emphasized the *autonomy of law* from politics and morality, unlike Austin's reliance on sovereign will. Thus, Kelsen's Pure Theory exposed the inadequacy of Austin's model in capturing the normative, structural, and systemic dimensions of modern legal systems.

3.3 Modern critiques in the context of human rights and constitutionalism.

Modern critiques of Austin's Command Theory highlight its inadequacy in explaining law within the framework of *human rights and constitutionalism*. Austin viewed law purely as the sovereign's command, backed by sanctions, with no role for morality or justice in its validity. However, in contemporary constitutional democracies, law derives its legitimacy not solely from authority but also from its consistency with *fundamental rights, constitutional principles, and democratic values*. For example, in systems with entrenched bills of rights, even legislatures are bound by constitutional limitations, and judicial review ensures that commands inconsistent with rights may be struck down.

Austin's model also fails to capture the *normative dimension of constitutionalism*, where concepts such as the rule of law, separation of powers, and constitutional morality are central. Human rights law, both domestic and international, often restrains state sovereignty, contradicting Austin's notion of an absolute, indivisible sovereign. The rise of supranational bodies, such as the European Court of Human Rights and the United Nations system, further demonstrates that authority is shared and conditioned by universal values. Thus, modern critiques argue that Austin's rigid, coercive definition of law is incompatible with a rights-based constitutional order, where legitimacy, consent, and justice are as essential as enforceability.

Constitutional Democracies and the Transformation of Sovereignty

4.1 Features of constitutional democracies: Supremacy of constitution.

One of the defining features of constitutional democracies is the *supremacy of the Constitution*, which stands as the highest legal authority governing the state. Unlike Austin's conception of an absolute sovereign whose commands define law, constitutional democracies recognize the Constitution as the ultimate source of legitimacy and validity of laws. The legislature, executive, and judiciary derive their powers from the Constitution and are bound by its provisions. Any law, policy, or action inconsistent with the Constitution can be declared void by constitutional courts through the process of *judicial review*, thereby ensuring that no organ of the state can act beyond constitutional limits.

The supremacy of the Constitution ensures *limited government and checks and balances*, preventing the concentration of power in a single authority. It also provides a framework for protecting *fundamental rights*, thereby ensuring that individual freedoms cannot be overridden by arbitrary state commands. In federal systems, constitutional supremacy further regulates the distribution of powers between the central and state governments, ensuring harmony and preventing conflict.

This principle reflects the democratic idea that sovereignty ultimately resides in the *people*, expressed through the Constitution rather than in a ruler or parliament. In India, the "basic structure doctrine" reinforces constitutional supremacy, while in the United States, *Marbury v. Madison* established judicial review to preserve it. Thus, constitutional supremacy serves as a cornerstone of modern democracies, ensuring that law is not merely coercive command but an expression of collective will, justice, and constitutional morality.

4.2 Features of constitutional democracies: Separation of powers.

The *separation of powers* is a fundamental feature of constitutional democracies, designed to prevent the concentration of authority and to maintain a balanced system of governance. Unlike Austin's model of an absolute and indivisible sovereign, constitutional democracies distribute power among three co-equal organs—the *legislature, executive, and judiciary*—each with distinct functions. The legislature makes laws, the executive implements them, and the judiciary interprets and safeguards them. This division ensures that no single authority can dominate the legal or political system, thereby preserving liberty and accountability.

The doctrine of separation of powers also promotes a system of *checks and balances*, where each branch restrains the excesses of the others. For example, legislatures are subject to judicial review to ensure that enacted laws conform to constitutional principles, while executives are held accountable through legislative oversight. This institutional balance guarantees that state power is exercised within constitutional limits and in accordance with democratic values.

Modern constitutional democracies provide many illustrations of this principle. In the United States, the Constitution explicitly embodies separation of powers, reinforced by landmark cases such as *Marbury v. Madison*. In India, while the doctrine is not rigid, the judiciary has repeatedly emphasized its importance through the basic structure doctrine. By dispersing power, separation of powers enhances *rule of law, accountability, and protection of*

rights, ensuring that governance reflects constitutional morality rather than the arbitrary will of a sovereign. Thus, it stands as a critical safeguard against authoritarianism and a cornerstone of democratic constitutionalism.

4.3 Features of constitutional democracies: Judicial review and constitutional courts.

Judicial review and the role of constitutional courts are central features of modern constitutional democracies, ensuring that all laws and executive actions conform to the higher authority of the Constitution. Unlike Austin's theory, where the sovereign's command is unquestionable, judicial review places even the legislature and executive under constitutional scrutiny. This mechanism empowers courts to strike down laws or policies that violate constitutional provisions, thereby preserving the supremacy of the Constitution and protecting citizens' rights.

Constitutional courts serve as *guardians of the Constitution*, interpreting its provisions and ensuring that state authorities act within the boundaries of their assigned powers. They also play a vital role in maintaining the balance of power among different branches of government and in upholding democratic values such as equality, liberty, and justice. Judicial review thus transforms law from being mere coercive command into a normative framework rooted in legitimacy and accountability.

Illustrations abound across jurisdictions. In the United States, *Marbury v. Madison* (1803) firmly established the doctrine of judicial review. In India, the Supreme Court has developed doctrines such as *basic structure* to prevent amendments that undermine constitutional identity. Similarly, in Europe, the European Court of Human Rights ensures that national laws align with fundamental human rights standards.

Through judicial review, constitutional democracies ensure that sovereignty resides not in a single authority but in the Constitution itself. This feature underscores the idea that law must be consistent with higher principles of justice, rights, and constitutional morality, beyond mere sovereign command.

4.4 Features of constitutional democracies: Fundamental rights and rule of law.

A hallmark of constitutional democracies is the entrenchment of *fundamental rights* and the principle of the *rule of law*, both of which limit state power and safeguard individual liberty. Fundamental rights act as guarantees that protect citizens against arbitrary actions of the legislature, executive, or even the majority. They embody values such as equality, freedom, dignity, and justice, ensuring that law serves not merely as sovereign command, but as a framework rooted in human rights. The rule of law complements this by demanding that all actions of the state are subject to law, and that no person, however powerful, is above the Constitution.

In practice, these features establish a *rights-based order* where state authority must conform to constitutional principles. For instance, courts often strike down laws or executive orders that infringe on guaranteed rights, thereby ensuring accountability. The rule of law also mandates procedural fairness, impartial justice, and non-discrimination in governance, preventing the misuse of power.

Examples from constitutional democracies illustrate their centrality: in the United States, the Bill of Rights limits governmental power; in India, Part III of the Constitution protects fundamental freedoms and empowers the judiciary to enforce them; while in the UK, though unwritten, rule of law principles guide constitutional conventions and judicial oversight.

Together, fundamental rights and the rule of law ensure that sovereignty rests not in unchecked authority but in the supremacy of justice and constitutional morality. They transform law from coercion into a *guarantor of liberty, equality, and democratic legitimacy*.

4.5 Concept of popular sovereignty vs. Austin's indivisible sovereign.

Austin's theory rests on the notion of an *indivisible sovereign*, a determinate authority habitually obeyed by the majority and not subject to any higher power. This sovereign—whether a monarch, parliament, or ruling body—was, for Austin, the ultimate source of law, and its commands constituted legal validity. Such a conception implies absolutism, leaving no room for divided authority, constitutional limits, or people's participation in governance.

In contrast, modern constitutional democracies embrace the principle of *popular sovereignty*, where ultimate authority rests with the people. The people express their sovereignty through the Constitution, which distributes power among organs of the state and limits all governmental actions. Unlike Austin's indivisible sovereign, popular sovereignty is not vested in a single ruler but is shared through representative institutions, judicial review, and federal arrangements. The Constitution, therefore, embodies the will of the people, not the command of an unchecked authority.

For example, in India, sovereignty is declared to reside in the people, expressed through the Preamble, while in the United States, the phrase "We the People" underscores the same principle. Thus, popular sovereignty challenges Austin's rigid model by demonstrating that legitimacy flows from collective consent, constitutional supremacy, and democratic participation, not coercive command.

4.6 Federalism and diffusion of authority.

Federalism is a defining feature of many constitutional democracies, directly challenging Austin's notion of a single, indivisible sovereign. In Austin's framework, sovereignty is absolute and concentrated in one determinate authority. However, in federal systems, sovereignty is *divided and shared* between the central government and constituent units, such as states or provinces. Each level of government derives its authority from the Constitution and exercises autonomy in its own sphere, subject to constitutional limits. This diffusion of authority makes it impossible to identify a single sovereign who commands all, undermining Austin's central assumption.

The U.S. Constitution, for example, distributes powers between the federal government and the states, reinforced by the Tenth Amendment. In India, the Constitution establishes a *quasi-federal structure*, where powers are divided through Union, State, and Concurrent Lists. Similarly, in the European Union, sovereignty is pooled among member states, creating a supranational legal order that Austin's model cannot accommodate.

This *diffusion of authority* ensures checks against concentration of power, enhances local self-governance, and allows for flexibility in addressing regional needs while maintaining national unity. Judicial review further ensures that both central and state actions conform to constitutional principles. Federalism, therefore, illustrates how modern democracies reject Austin's indivisible sovereign and instead ground authority in a *constitutional framework of shared power and cooperative governance*, reflecting the collective will of the people.

Revisiting Austin in Contemporary Context

5.1 Coercion vs. consent: Is law merely a command?

Austin's Command Theory defines law as the sovereign's command, backed by sanctions, which emphasizes the *coercive element* of legal authority. According to this view, individuals obey the law primarily out of fear of punishment, not because they accept its legitimacy. While this framework highlights the undeniable role of coercion in law enforcement, it reduces law to a one-dimensional phenomenon and overlooks its deeper foundations in *consent and legitimacy*.

In modern constitutional democracies, laws are not merely instruments of coercion but are also expressions of the *collective will of the people*. Through representative institutions, participatory processes, and constitutional guarantees, citizens become both the makers and subjects of law. This transforms obedience from fear-driven compliance into a form of *voluntary acceptance*, since laws derive legitimacy from democratic consent and constitutional values. For instance, fundamental rights and welfare provisions are obeyed not out of fear of sanctions but out of recognition of their moral and social authority.

Moreover, constitutional courts reinforce this legitimacy by ensuring that laws align with principles of justice, equality, and rights. International human rights norms also illustrate that law cannot be sustained by coercion alone. Thus, while coercion is an essential aspect of enforcement, law in constitutional democracies is equally grounded in *consent, legitimacy, and shared values*, proving that it is far more than a mere command of a sovereign authority.

5.2 The shift from sovereign command to constitutional legitimacy.

The evolution of modern constitutional democracies marks a decisive shift from Austin's model of *sovereign command* to the principle of *constitutional legitimacy*. In Austin's framework, law derived its validity from the authority of a determinate sovereign whose commands were habitually obeyed and enforced through sanctions. Such an approach assumed absolute, indivisible authority, disregarding limitations on power or the role of consent. However, constitutional democracies operate on a very different foundation, where the *Constitution itself is the supreme law*, and all state institutions derive legitimacy from it.

This transformation is evident in the way laws are created, interpreted, and enforced. Instead of unilateral sovereign commands, laws emerge through *representative processes*, ensuring that they reflect the collective will of the people. Constitutional legitimacy further requires that laws conform to fundamental rights, democratic values, and principles of justice. Judicial review acts as a safeguard, striking down laws inconsistent with constitutional provisions, thereby reinforcing the supremacy of the Constitution over political authority.

Examples from various jurisdictions highlight this shift: in the United States, *Marbury v. Madison* entrenched constitutional supremacy; in India, the *basic structure doctrine* ensures that even Parliament cannot undermine core constitutional principles. This illustrates that the authority of law today rests not merely on coercive enforcement but on its *alignment with constitutional morality, democratic consent, and public legitimacy*. Thus, the shift from sovereign command to constitutional legitimacy underscores law's evolution from a tool of authority to a framework of justice and democratic governance.

5.3 Reconciling positivism with constitutional morality.

Reconciling *legal positivism* with *constitutional morality* is one of the central challenges in contemporary jurisprudence. Positivism, as developed by Austin and later refined by Hart, emphasizes the *separability of law and morality*, focusing on law as it is—commands or rules issued by a recognized authority. This framework ensures clarity, predictability, and objectivity in identifying valid legal norms. However, in modern constitutional democracies, law cannot be understood solely in positivist terms, as constitutions are infused with *moral principles* such as justice, equality, liberty, and dignity. These principles not only guide governance but also serve as standards for evaluating the legitimacy of laws.

Constitutional morality, a concept articulated by thinkers like B.R. Ambedkar and later developed through judicial interpretation in India, stresses adherence to the core values and ethos of the Constitution, even beyond its textual provisions. Courts frequently invoke principles of constitutional morality when interpreting rights, ensuring that law reflects not just sovereign will but also democratic ideals. For example, in India's *Navtej Singh Johar* case, the Supreme Court struck down colonial laws inconsistent with dignity and equality, invoking constitutional morality.

Reconciling the two requires recognizing that while positivism provides a *methodological framework* to identify valid laws, constitutional morality offers the *substantive criteria* to evaluate their legitimacy. Together, they ensure that law remains both certain and just. Thus, modern jurisprudence blends positivist clarity with constitutional morality, transforming law into a system that balances authority with values, coercion with consent, and structure with justice.

5.4 Relevance of Austin's ideas in limited contexts (e.g., administrative law, emergency powers).

Although Austin's Command Theory is widely regarded as inadequate for explaining modern constitutional democracies, certain aspects of his ideas retain *relevance in limited contexts*. His emphasis on law as a *command backed by sanctions* continues to resonate in areas where coercion and authority are central to enforcement, such as *administrative law and emergency powers*.

In administrative law, many regulations function as direct commands issued by authorities, imposing duties with clear penalties for non-compliance. For instance, tax regulations, licensing requirements, or public safety directives often operate in the Austinian sense, compelling obedience through the threat of sanctions. In these spheres, law is less about moral reasoning and more about administrative efficiency and enforcement.

Similarly, during states of emergency, governments often rely on Austin's coercive model of law. Emergency powers typically involve the suspension of certain rights and the issuance of binding commands by the executive, backed by the threat of punishment. Such situations reflect Austin's conception of a determinate authority exercising near-absolute control, where obedience is expected irrespective of broader democratic processes.

However, even in these contexts, Austin's model remains incomplete, as constitutional safeguards, judicial review, and rights-based checks ultimately limit the scope of such powers. Thus, while his theory does not explain the *entirety of constitutional democracies*, it continues to provide useful insights into contexts where the coercive and command-based aspects of law remain predominant.

Conclusion

Revisiting Austin's Command Theory in the context of contemporary constitutional democracies reveals both the *enduring influence* and the *significant limitations* of his framework. Austin's insistence on a clear, determinate sovereign and law as a command backed by sanctions laid the foundation for *legal positivism*, offering much-needed clarity in distinguishing law from morality during the 19th century. His ideas remain useful in certain contexts, such as administrative law or emergency powers, where authority and coercion are dominant features.

However, the transformation of governance under modern constitutions has rendered Austin's model insufficient as a comprehensive theory of law. Constitutional democracies are founded on the *supremacy of the constitution*, the *separation of powers*, the *rule of law*, and *fundamental rights*—all of which diffuse authority and limit sovereign power. The concept of an indivisible sovereign is inconsistent with federalism, popular sovereignty, and the rise of constitutional courts empowered to review and strike down laws. Unlike Austin's coercive command, modern laws derive legitimacy from *consent, representation, and constitutional morality*, blending authority with justice and public values.

Critiques from Hart and Kelsen further illustrate the inadequacy of Austin's framework: Hart's distinction between primary and secondary rules highlights the complexity of legal systems, while Kelsen's Pure Theory of Law and the Grundnorm emphasize the normative foundations of legal order. In addition, the growth of human rights jurisprudence demonstrates that coercion alone cannot sustain law—its legitimacy depends on alignment with constitutional principles and international standards of justice.

Thus, the shift from sovereign command to constitutional legitimacy underscores the evolution of law from an instrument of authority to a framework of *democratic governance and moral responsibility*. While Austin's theory retains contextual relevance, its rigidity is incompatible with the pluralism, rights-based orientation, and institutional checks of modern democracies. Ultimately, constitutionalism has transformed the essence of legal authority, showing that law is not merely a command but a living system rooted in both *positivist clarity and constitutional morality*.

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