

HUMAN RIGHTS AND THE PROBLEMS OF AN INTERVENTIONIST APPROACH: A DEBATE BETWEEN WALDRON AND RAZ

LOS DERECHOS HUMANOS Y LOS PROBLEMAS DEL ENFOQUE INTERVENCIONISTA: UN DEBATE
ENTRE WALDRON Y RAZ

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Abstract: This article analyzes how the consideration of harsh realities in describing human rights practices can undermine both their suitability and the normativity of a human rights theory. The main argument is that Joseph Raz's theory, by failing to examine the content of human rights, offers a distorted account grounded in sovereign interventionism, without addressing the difficult realities associated with such interventions. For example, Raz overlooks the selectivity of sovereign interventions and the hidden interests that often motivate them. The critique of Raz's theory centers on two key issues: first, his methodological failure to incorporate real-world conditions, which results in an idealized portrayal of interventionism; and second, his disregard for the debate over the content of human rights, which is essential to establish their normative basis. This critique is developed through the human rights theory of Jeremy Waldron, who highlights the normative challenges and potential dangers of relying on interventionism to define the content of human rights. The article begins with an analysis of the methodological shortcomings in Raz's theory, continues with a critique of his interventionist stance, and concludes with Waldron's objections to Raz's approach.

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Resumen: Este artículo analiza cómo la consideración de duras realidades al describir las prácticas de derechos humanos puede socavar tanto su pertinencia como la normatividad de una teoría de derechos humanos. El argumento principal es que la teoría de Joseph Raz, al no examinar el contenido de los derechos humanos, ofrece una explicación distorsionada basada en el intervencionismo soberano, sin abordar las difíciles realidades asociadas con dichas intervenciones. Por ejemplo, Raz pasa por alto la selectividad de las intervenciones soberanas y los intereses ocultos que a menudo las motivan. La crítica de la teoría de Raz se centra en dos cuestiones clave: primero, su fracaso metodológico para incorporar condiciones del mundo real, lo que resulta en una representación idealizada del intervencionismo; y segundo, su desprecio por el debate sobre el contenido de los derechos humanos, que es esencial para establecer su base normativa. Esta crítica se desarrolla a través de la teoría de derechos humanos de Jeremy Waldron, quien destaca los desafíos normativos y peligros potenciales de depender del intervencionismo para definir el contenido de los derechos humanos. El artículo comienza con un análisis de las deficiencias metodológicas de la teoría de Raz, continúa con una crítica de su postura intervencionista y concluye con las objeciones de Waldron al enfoque de Raz.

Palabras clave: Derechos humanos, Intervención internacional, Derecho internacional, Filosofía de derecho.

Summary. I. Introduction. II. Methodological questions on Raz's human rights theory. III. Raz's human rights theory based on interventionist practice. IV. Waldron's criticism: the problem of brutal facts saturation on human rights. V. Conclusion. References.

I. INTRODUCTION

Human rights have traditionally been approached from a moral foundational perspective, often grounded in the concept of dignity. However,

this approach has faced criticism due to the perceived impossibility of establishing a universally shared moral foundation. As Beitz (2009) pointed out, contemporary theories of human rights have increasingly shifted focus toward the analysis of human rights practices, moving away from debates about their substantive content.

For some contemporary theories, this shift entails setting aside, at least partially, the question of what human rights truly are, in favor of describing how normative human rights practices function. This contrasts with more skeptical positions, such as those of Douzinas (2000) and Rosen (2014), who suggest that appeals to dignity merely serve to give a humane appearance to a brutal world; one in which, for them, human rights hold no real place. Raz does not align with such skepticism; instead, he attempts to describe normative practices from a non-skeptical standpoint. This divergence marks the beginning of a methodological debate: whether human rights practices should be described through idealized expectations or by taking into account the harsh realities of how such practices have evolved.

The choice between these methodological approaches is significant. Advocates for an idealized description often argue that it allows for the development of a genuinely normative theory, one capable of guiding laws, institutions, and society toward certain corrective goals, positioning human rights as instruments for humanitarian progress.

Nonetheless, while many normative theories emphasize correctional ideals, such idealization can result in excessive abstraction. This was evident in the case of the *droit des l'hommes*, which, despite its lofty ideals, failed to

ensure effective protection for the most vulnerable, like refugees and stateless persons (Arendt, 2017). Waldron (2013a), however, supported a socially grounded Kantian interpretation in which citizenship is seen as a more basic expression of dignity. In this sense, Kant's assertion that "Certainly no human being in a state can be without any dignity, since he at least has the dignity of a citizen" (Kant, 1999, p. 471) suggests that a human rights theory based on dignity cannot be excessively abstract or idealized.

Nevertheless, the prevalence of overly abstract theories has had detrimental effects, demonstrating that choosing a model grounded in idealized legitimacy and normative practice carries its own risks. As an alternative, some have advocated for a theory based purely on human rights practices, that is, built on methodological premises that avoid excessive idealization and reject the oversight of skepticism. Yet, even this practice-based approach, especially when tied to interventionism, has faced substantial criticism. Although it may appear to aim at overcoming the injustices of arbitrary sovereignties, this objective often conceals hidden interests and reveals a selective application of justice. When justice becomes selective and loses its universality, it signals the presence of troubling inconsistencies.

In that sense, both methodological approaches (those grounded in the concept of "true" human rights and those based on the analysis of human rights practices) carry their own practical implications. Despite efforts to remain descriptive, even theories focused solely on factual accounts of human rights practices may result in an idealized portrayal that conceals questionable interests. Therefore, it is argued that any attempt to describe human rights practices must incorporate their harshest aspects in order to establish itself as a

reliable theory and to justify its claim of being distinct from content-focused theories of human rights.

This article examines Joseph Raz's theory of human rights through the lens of Jeremy Waldron's critique, particularly in relation to Raz's emphasis on practices. The central argument is that Raz's theory risks losing its foundation by avoiding a substantive debate about the content of human rights and concentrating instead on interventionist practices. Raz's approach seeks to define human rights through their legal function, especially in justifying interventions in sovereignty. However, as Waldron's broader critique suggests, this focus leads Raz to overlook the brutal realities embedded in some human rights practices; realities that, if acknowledged, might challenge the validity of a theory grounded exclusively in interventionism.

To develop this argument, the article compares the methodological foundations of Raz's and Waldron's theories. It begins with a methodological analysis of which types of elements may or may not be included in a human rights theory that aspires to be both normatively grounded in ideals and attentive to the real-world operation of human rights. Only after this methodological comparison does the discussion turn to substantive issues, such as which rights should be included in the content of human rights, or which international practices ought to serve as reference points for defining them. The article thus begins with methodological considerations and then examines their impact on understanding these substantive aspects.

The first section presents methodological criticisms of Raz's theory of human rights, identifying points that go beyond Waldron's critique but that

could strengthen it. The second section analyzes Raz's account of human rights practices, particularly its focus on interventionism, outlining its limitations and preparing the ground for Waldron's objections. The final section presents Waldron's critique of Raz's interventionist approach, emphasizing that, by ignoring the harsh realities of intervention, Raz offers an idealized and incomplete account of human rights practice.

But, beyond Waldron's critique, this article further argues that reflections on human rights must be rooted in an analysis of the legal content that gives human rights their normative value, rather than being limited to interventionist practices. It contends that reducing the analysis to a mere description of practices, especially when these involve selective enforcement or hidden interests, risks overwhelming human rights discourse with negative elements. Such a burden, grounded only in facts, undermines both the normativity and legitimacy of a human rights theory such as the one developed by Raz.

II. METHODOLOGICAL QUESTIONS ON RAZ'S HUMAN RIGHTS THEORY

Recent discussions on human-rights theory have shifted from debating their substantive content to examining the practices they involve. A notable example is Raz's thesis (2010a), which argues that human rights lack the maturity needed for precise analytical treatment. According to Raz, neither current practice nor existing theory provides a solid basis for an analysis comparable to that used for legal rights and duties within national systems, where social sources clearly justify institutional authority and law.

Given these requirements, Raz imposes strict conditions before accepting an analytical approach to human rights. Two points stand out: first, any theory of human rights must replicate features typical of national legal systems; second, human rights are essentially connected to international law. Raz frames both points almost exclusively through descriptions of global human-rights practices, showing clear pessimism about whether they can satisfy analytical standards, a stance that later appears to conflict with his own theoretical aims.

Demanding rigorous analysis to maintain methodological discipline might seem commendable, yet Raz's position departs from this rigor when he proposes a normative theory that relies on idealized assumptions. It appears inconsistent to insist that the international order must meet the requirements of a fundamentally different legal system with its own distinctive characteristics.

Therefore, Raz concludes that the current international framework cannot fulfill these analytical demands; a view challenged in this article as an unwarranted requirement. Consequently, he limits himself to describing human-rights practices only to the extent he deems analytically feasible, conceding that they possess a "damaged" quality. For Raz, the fully satisfactory analytical model is found within national systems; so investigating human rights analytically is worthwhile only because contemporary circumstances make it unavoidable, not because those practices are well suited to such an analysis. Thus, Raz's analytical project seems driven more by necessity than by genuine conviction.

In that sense, Joseph Raz's critique of the underdeveloped analytical character of human rights is grounded in his reference to the exemplary model of positive law within the nation-state. According to various strands of legal positivism, this model allows for the identification of a social source from which law derives, such as a rule of recognition that determines what counts as law (Hart, 2012). The strength of the social sources thesis lies not only in identifying the authority from which law emanates but also in providing a stable basis for distinguishing legal content from morality and other normative systems.

In the absence of a similarly complete and authoritative framework for human rights, both in terms of legitimacy and definitional clarity, Raz turns away from analyzing their content and instead focuses on describing human rights practices. This move serves as his main justification for avoiding substantive engagement with what constitutes "true" human rights. As Raz (2018) states: "Even true human rights theories should not be the standards by which to judge human rights practice" (p. 141).

Lacking a convincing practical structure to ground human rights, and consistent with his own methodological stance, Raz constructs a theory that is neither focused on content nor confident in the normative authority of the institutions involved. This explains why he separates his theory of positive law from his theory of human rights. If legal validity depended on compliance with human rights, law would lose the unrestricted authority it claims (Raz, 2012).

How, then, does Raz justify developing a human rights theory if national legal systems assert unlimited authority? Is there not a contradiction here? According to a core premise in Raz's work, there is no contradiction because

he maintains a clear methodological separation: some writings are strictly within the framework of legal positivism, while others, particularly his papers on human rights, are descriptive analyses of human rights practices. This distinction is essential, as reconciling both approaches within a single theoretical framework would be impossible due to their differing assumptions and levels of theoretical development.

It is equally important not to misinterpret Raz's work as an attempt to integrate these two domains, since they rest on mutually exclusive premises. A central tenet of his legal positivism is that no human right can serve as a condition for the legitimacy of positive law, because, for Raz (1988), law inherently claims unlimited authority. Since it is in the nature of positive law to be immune to such conditions (Raz, 1980), nothing in his positivist theory depends on or is derived from any human rights framework. This stands in contrast to the more common view: that human rights serve to limit or condition the authority of positive law.

Although some might interpret this as theoretical inconsistency or "bipolarity," the methodological distinction should be understood on its own terms rather than dismissed prematurely. This article argues that Jeremy Waldron's main critique of Raz is not methodological in nature, which strengthens his position by focusing on the substance of Raz's arguments. Therefore, dismissing Raz purely on methodological grounds would be reductive and would fail to engage with aspects of his theory that may still offer valuable insights.

III. RAZ'S HUMAN RIGHTS THEORY BASED ON INTERVENTIONIST PRACTICE

According to Raz's theory, the authoritative force of human rights does not stem from any deeper moral foundation, but rather from pragmatic reasons that justify their importance (Raz, 2010b). In a human rights theory centered on practices, the primary concern is not the social source of law, which is central to positive law as a complete legal system. Instead, emphasis is placed on the pragmatic conditions under which something is regarded as a human right.

This focus helps explain why Raz avoids engaging in debates about the content of human rights. He views such discussions as inevitably leading to questions of moral foundations, thereby sidestepping the central issue of practice-based justifications, which are primarily pragmatic. When Raz states that something is identified as a human right because it justifies intervention in sovereignty, he is applying a pragmatic criterion, not one based on moral rights or any ultimate moral grounding (Raz, 2010b). This approach becomes even clearer in the three truisms outlined in Raz's (2010b) work, which elaborate on the basis for attributing value to rights:

1. Rights are valuable depending on the value of their object.
2. Rights have intrinsic value for their holders.
3. Rights are valuable because they impose limits on third parties.

In all these cases, the law acquires a type of value as it becomes important, either relative to the object, relative to the mediation of the relationship between people, or even as a type of power conferred on its holder. Even in the first case, in which it refers to the value of the object, this value is

not cognitively attributed with reference to a moral foundation. On the contrary, it is a value that is pragmatically constructed. According to Raz's understanding, human rights would be a kind of moral right temporarily located in contemporaneity and existing as emergent rights within a certain order that find their foundation not in positive law but in some other international structure that supports them, which also carries its effectiveness due to pragmatic factors of social, economic, and cultural pressure.

This is the limit discourse the author can reach, taking into consideration that treating human rights requires dissociating the authoritative claim of law from a conventional social source within the national legal system or from an ultimate moral foundation. This is how Raz defines the emerging order from which human rights emanate in contemporary times: moving away from legal positivism and moral foundationalism.

When talking about emerging world order I have in mind the pattern of institutions, treaties and established practices that are emerging under the impact of the economic, social and cultural pressures in a world growing smaller and more interdependent through vastly enhanced communication technology. The new world order is in the making. We are in a period of quick changes in many aspects of the international situation, changes whose directions are uncertain. (Raz, 2010b, p. 39)

The author's argument that human rights are not grounded in atemporal laws reflects his effort to detach them from any moral or other foundational basis, which he refers to as "traditional." In doing so, he maintains internal coherence by relying on a pragmatic framework to define what counts as human

rights. For Raz, this approach intentionally avoids a debate over the substantive content of human rights. A more detailed examination of this issue will be presented when addressing Waldron's critique of human rights theories that attempt to bypass discussions of content. For now, it is appropriate to reserve that argument for the following section.

In relation to human rights, Raz (2010a) develops an argument tied to the concept of sovereignty. He claims that the defining feature of human rights is their capacity to limit sovereignty. Sovereignty is traditionally understood as the quality of a power that recognizes no superior authority, as seen in Hobbes (2017). Sovereignty, by its nature, entails immunity from external interference. Consequently, mutual recognition of sovereignty between states implies a commitment to non-intervention in each other's internal affairs. For Raz, human rights serve as a criterion for determining when a state's sovereignty is no longer worthy of such immunity. In other words, they establish the conditions under which a state forfeits the protection that sovereign recognition usually provides.

This conception of human rights, rooted in the practices of international law, reflects a pragmatic approach. However, it should not obscure certain problems that will be explored later through Jeremy Waldron's work. When addressing the limits of power, Raz (1980) distinguishes between two types: legal limitations and *de facto* limitations. Legal limitations are internal to the legal system, where one rule restricts another through the system's own logic; for instance, when the law assigns legislative authority to a specific body. However, regarding the content of law, Raz argues that because law claims unlimited authority, it is *de facto* limitations that give meaning to the legal system's immunity. These include external forces such as media opinion or public dissent.

Raz applies a similar line of reasoning to human rights. The determination of whether human rights have been violated –and whether this justifies intervention– is, in his view, a matter of fact. It depends on the extent of the violation's impact and how it is perceived by states or international institutions, based on their own “sensitivity.” Raz does not elaborate on the internal legal limitations of human rights. For him, it is sufficient to view the international system as an “emergent order”: a network of institutions governed by internal rules that act under the influence of social, political, or economic pressures (Raz, 2010b). In this account, factual elements take precedence over legal ones in determining how human rights are practiced. This is troubling, given that intervention in sovereignty is a serious matter and ought to be addressed with greater normative and analytical rigor.

Within this emergent order, the role of legal limitations appears marginal. It is precisely the focus on factual limitation –or the factual dimension– that reveals the most contentious aspect of Raz’s theory. He does not examine the criteria that should govern decisions to intervene. His theory does not rely on legal protocols but on factual conditions that take on primary importance, such as informal arrangements, negotiations, and questionable agreements that ultimately determine whether intervention occurs. Therefore, Waldron challenges this view by arguing that defining human rights mainly through their capacity to justify intervention is inadequate. This critique will be examined more thoroughly in the next section through Waldron’s perspective.

In other words, in Raz (2010b), human rights are defined as those rights whose violation necessarily opens the possibility for intervention in a state's sovereignty; for instance, in cases of genocide or large-scale rights violations.

These are situations in which the practice of human rights tends to justify interventionist actions, whether political, economic, or even military. Thus, Raz's theory of human rights aligns more closely with international practices rooted in interventionism, rather than with a normative account of human rights grounded in the intrinsic value of the rights themselves. In contrast, theories that focus on the substantive content of human rights assume that violations demand proportionate responses because of the values those rights embody.

However, Raz's theory appears to create a gap for those concerned with the substantive content of human rights. While legal positivism relies on the social sources thesis to define the content of rights, in Raz's view, human rights derive their content from their function, specifically their capacity to justify intervention by sovereign powers. This criterion for identifying human rights stands in tension with the notion that their content should be grounded in normative principles.

Clearly, Raz's focus is not on the values underlying human rights, but on the practice of sovereign intervention. In this sense, a sharper critique would be to describe his theory not as a theory of human rights, but rather as a theory of "sovereign intervention". This line of criticism helps give weight to Jeremy Waldron's objections, which emphasize the violence and moral consequences of intervention, dimensions that Raz does not fully address. According to Raz, the practice of human rights does not depend on clarifying what should count as human rights. As a result, it becomes evident that Raz accepts as human rights whatever rights are invoked in interventionist practices. He seems to follow a methodological approach aimed at identifying what distinguishes human rights from other rights –such as those defined by positive law– while deliberately avoiding debates about their substantive content.

Given Raz's own methodological framing, it is fair to acknowledge that Waldron's critique may impose expectations on Raz that the latter explicitly rejects. Still, this does not prevent a meaningful engagement with Waldron's arguments, especially when focusing on their substantive aspects rather than methodological precision. This is particularly justified since Raz's central response to Waldron relies largely on methodological reasoning, without addressing the substance of Waldron's critique, a point that is central to the present analysis.

The next section will address Waldron's criticisms of Raz's theory, highlighting its inconsistencies and evaluating the demands Raz places on his own framework. It will focus especially on the substantive elements of Waldron's argument, while also developing further analysis inspired by –but not explicitly found in– his work.

IV. WALDRON'S CRITICISM: THE PROBLEM OF BRUTAL FACTS SATURATION ON HUMAN RIGHTS

In this section, it is necessary to consider that Waldron's (2018) critique of Raz's theory of human rights is straightforward –yet no less forceful– and can be summarized as follows: any theory of human rights that bases itself on the practice of state intervention in the sovereignty of others is both inadequate and problematic. This is due to the unjust harms caused by such interventions, as well as the corruption and hidden interests that often underlie them. If these interventionist practices are used as the foundation for defining what human rights are, they risk distorting the very concept and undermining its integrity.

One initial reason to support Waldron's critique lies in Raz's own skepticism toward the analytical grounding of the institutions and authorities involved in human rights practice. Although Waldron does not directly make this point, his argument is strengthened when it is taken into account. Raz attempts to formulate a normative theory of human rights based on a descriptive account of practice, despite his doubts about the analytical coherence of such an approach. This contradiction weakens his position.

At the very least, one would expect Raz to recognize that the justification for international intervention, based on the authority of interventionist institutions, lacks sufficient legitimacy. While Raz's theory of state authority is grounded in analytical rigor, his theory of human rights is notably less demanding, more political than legal, and based on less stringent criteria, even by his own standards.

If Raz believed that a theory of human rights could not meet the standards of analytical clarity, then he should have incorporated the harsh realities of interventionist practices into his framework. Instead of idealizing sovereignty interventions, a more honest theory would have acknowledged the factual conditions surrounding them, including their selectivity, corruption, and political motivations. However, doing so would have made the theory less normative and undermined its credibility. This, in essence, captures the core of Waldron's (2018) criticism: a theory grounded in interventionist practices must also confront the darker realities of those practices; it must account for the fact that many interventions are not motivated primarily by a concern for human rights, but by strategic or political interests.

Although Waldron does not frame this as a direct attack on Raz's theory, his argument implies that defining human rights through the lens of interventionist practice demands a more careful and critical analysis. The underlying concern is that Raz uses the appeal to "practice" to avoid engaging with the normative content of human rights, despite the fact that such content is inevitably implicated in the legal and political decisions that lead to intervention. This concern is even more pressing given that these interventions, whether military or economic, can severely destabilize national economies and international relations.

Although Raz (2018), in his response to Waldron, argues that the latter imposes on his theory a demand beyond its intended scope –namely, the expectation of normative rigor in a theory meant only to reflect existing practices–, this defense proves insufficient. Waldron's critique is not limited to methodological concerns; it targets the very substance of Raz's approach. Waldron (2018) exposes the reality of interventionist practices as highly selective and politically motivated. For instance, he points out that human rights violations by strategic allies are often ignored, while interventions target weaker states that possess resources valued by the powerful nations that dominate decision-making bodies. By presenting this unfiltered depiction of practice, Waldron challenges the adequacy of Raz's account, showing that it fails to reflect the actual dynamics of intervention in the name of human rights.

According to Waldron, grounding human rights in these interventionist practices turns them into instruments for justifying acts of violence under the pretense of moral purpose. One might respond that normative theories do not need to replicate the harsh realities of practice, but rather provide a prescriptive

ideal. However, Waldron counters that the degree of selectivity and manipulation in real-world interventions is so deep-rooted that it corrupts the very notion of intervention. This is the heart of his critique.

Moreover, Waldron (2012) argues that the law must adopt a form that protects individual dignity. Otherwise, the individual becomes irrelevant within a system dominated by powerful, self-interested actors. If the practice of human rights is shaped more by politics than law (driven by behind-the-scenes negotiations, suspect agreements, and an aversion to upsetting powerful groups), then it drifts away from the possibility of genuine regulation and, ultimately, from normativity itself.

Likewise, Waldron (2011) criticizes the claim that the international realm cannot be governed by the rule of law (ROL). Drawing on his earlier work (Waldron, 2008), which defines ROL as a safeguard against arbitrary power, he argues that international institutions, agencies or states that exercise unchecked authority over others pose a serious threat to weaker states and populations. Interventionist practices, in his view, frequently exemplify this danger, especially when they lack the integrity necessary to establish a coherent understanding of what constitutes human rights.

In other words, Waldron's central thesis is that interventionist practices, due to their violent and politically compromised nature, undermine the minimum standards required of instruments meant to administer justice. If human rights are defined through such practices, then any theory built upon them struggles to meet even the most basic criteria of legitimacy for a theory of justice.

Even if this substantive critique alone casts serious doubt on Raz's theory, it is further reinforced by a methodological weakness. Because Raz expresses skepticism toward the possibility of analytically grounding a human rights theory, his position becomes vulnerable to the charge that it accepts a degree of normative failure from the outset. Nevertheless, he continues to pursue this project without fully accounting for the implications of the interventionist practices he relies on.

Considering the aforementioned, a theory like Raz's would need to abandon any idealized conception of interventionism and instead engage with the realities of how interventions actually occur. In these practices, the influence of interests, power dynamics, and institutionalized inequalities is not rare: it is systematic. If Raz concedes the analytical difficulty of constructing a theory of human rights and still insists on analyzing practice as it exists, then he must also confront the embedded cruelty and structural violence that define those practices, even when they are formalized through institutional mechanisms.

Finally, two additional questions must be raised, questions not addressed by Waldron but prompted by his argument and related to other aspects of Raz's work. When Raz (1980) discusses the limits of state power and authority, he identifies two types of limitation: *de facto* and legal. Based on this distinction, the idea of *de facto* limitation can be expanded to include broader factual conditions. That is, every law is not only limited by facts but also shaped by them, influencing both its form and content. From this perspective, and applying it to Raz's human rights theory, one can see that its interventionist dimension is heavily burdened with factual elements that end up determining both its content and institutional structure.

At the same time, human rights practices provide numerous examples where the content of rights is contested, and this content plays an essential role in shaping how these practices function. Raz overlooks that a defining feature of human rights practices is that their content cannot be reduced to mere factual determinations. In practice, not everything qualifies as a human right simply because of the facts, much less due to interventionist facts. This demonstrates that human rights practices often base the relationship between law and value on the value of the right itself and its protected object, an aspect Raz's theory avoids.

As for Waldron (2018), he exposes the harshness of interventionist practices, marked by targeting weaker actors, shielding allies who violate rights, and operating through complex dynamics of interests and sensitivities. These are precisely the kinds of factual issues that shape and define the content of human rights, even if Raz ignores them, thereby avoiding a genuine human rights debate. In this light, Waldron's strong reaction to Raz's method of analysis is unsurprising.

What Raz seems not to realize is that the way he formulates his theory of human rights results in a saturation of factual influence, which undermines its legitimacy as a normative theory. As a result, his theory can only remain internally consistent by omitting uncomfortable realities and disregarding his own analytical rejection of a human rights theory, a position he seemed to accept with a certain fatalism.

Therefore, while human rights and their practices cannot, on the one hand, be fully contained within a rigid institutional framework like that of the national legal system—which, under legal positivism, rests on the thesis of social

sources—, on the other hand, a human rights theory should rely even less on factual conditions for its normativity. An overload of such elements weakens the normative foundation of the theory. Including them to excess undermines the very normativity of human rights, whose core lies in the value of the right and its object. The factual burden carried by the interventionist thesis thus runs counter to the normative dimension of human rights. Even in the value-right relationship, Raz neglects the point that the justification for protecting and valuing a right is grounded in the value attributed to the object itself, not merely in facts; this is a thesis he entirely overlooks due to his methodological choice to avoid addressing the content of human rights.

Having shown the insufficiency of relying solely on interventionist practices to justify the normativity of human rights, the debate on their content becomes unavoidable; or, as some might say, the debate on the “true” human rights. This is crucial for clarifying what is understood as human rights and for avoiding the risk of legitimizing deeply questionable practices under the appearance of human rights, which may conceal inhuman and self-serving interests. Some of the strongest critiques might argue that Raz’s theory, if taken seriously, could be used to justify inhuman practices. Although his theory claims to be based on practice rather than abstract methodology, it overlooks the concrete realities of those practices and ends up serving as a façade for concealed interests, treating everything as “matters of premises and methodologies” and neglecting the minimum standard of adequacy that any serious theory of human rights and its practices must meet.

V. CONCLUSION

This article, inspired by and largely based on Jeremy Waldron's critiques of Joseph Raz's theory of human rights, seeks to show that an approach grounded solely in factual descriptions –particularly those rooted in interventionist and invasive practices concerning sovereignty– entails both methodological and political-legal problems. The methodological issues are evident in the inconsistency of Raz's reasoning, which results in an idealized portrayal of interventionist practices. Additionally, Raz avoids engaging in the debate over the content of human rights.

Although Raz focuses on practice, his description of interventionist actions affecting sovereignty adopts an idealized form that omits certain facts which ought to have been included. This methodological flaw undermines his theory's claim to completeness. Waldron recognizes these shortcomings, which explains the forceful nature of his critique. He observes that Raz overlooks significant aspects of interventionist practices, such as questionable alliances and selective application—features that reveal a certain crudeness in these practices and that compromise the minimal integrity expected of a normative theory of human rights.

Any normative theory, including a human rights theory, aims to offer guidance that structures and directs practice. When Raz excludes important facts from his description of interventionist practices, even if those facts are uncomfortable, and when those very facts threaten the integrity of the normative framework, avoiding them for methodological reasons risks enabling the very harms such a theory should help address. For this reason, Waldron responds vigorously and takes a firm stance against Raz's position.

Raz, in response, argues that Waldron imposes a demand he never assumed himself; specifically, the requirement to address the content of human rights. However, this defense appears unjustified. As this article demonstrates, the methodological shortcomings in Raz's theory stem not from external demands, but from his own commitment to theorizing human rights practices. In doing so, he neglects essential aspects and facts within those practices that should have been described or at least acknowledged.

Moreover, it is problematic for a theory to address human rights practices without proposing some procedure for identifying and defining their content. In Raz's work, interventionist practice effectively becomes the means of identifying what counts as human rights content. As a result, this article concludes that the debate over the content of human rights cannot be avoided. Without such a debate, the accumulation of troubling and questionable factual elements (standing alone) risks overwhelming and ultimately undermining the normative integrity of human rights.

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