Unpacking human rights practice: constructive interpretation, human dignity and the contempt account

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Introduction

Contemporary human rights are a flourishing social practice. Since the adoption of the Universal Declaration in 1948 almost every single nation has joined it and it is now composed of myriad of institutions, treaties and international courts. They are also an interpretive practice. This is so because although its participants agree that it is a valuable activity, they nevertheless disagree about its constitutive rules and the true nature of the goal they deserve.

Some think, for example, that the goal of human rights practice is to preserve certain key features, capacities or interests of human beings, such as autonomy, personhood or purposiveness, from the activities of all other agents. This position is known in the literature as the natural rights approach to human rights and has been defended by authors as influential as
James Griffin, John Tassioulas, Allan Gewirth and Martha Nussbaum. From this perspective, human rights are claims that human beings have against governments, international institutions, transnational corporations and other individuals just in virtue of being human.

On the other hand, authors such as Joseph Raz, John Rawls and Joshua Cohen, regard human rights as norms playing a particular functional role within the current system of states. This role is to trump national sovereignty by justifying some kind international response when governments persistently violate the interests that human rights aim to protect. Human rights are thus claims that people have exclusively against their own government and they would cease to exist if the current political setup was dramatically reshaped.

It is evident that these rival accounts have important implications for the future of human rights practice. Advocates of the natural rights approach argue, for instance, that human rights norms can be violated by the activities of non-state actors and that they provide grounds for some kind of transnational justice demands. Advocates of the political approach, on the contrary, are convinced that extending the application of human rights norms to agents other than states may be counterproductive because it may trivialize the notion of human rights violation and


undermine the idea that states have special responsibilities towards their residents. This is not to deny, of course, that non-state actors have an obligation to respect the fundamental interests of human beings. The tenet of these authors is rather that such obligations belong to some other province of political morality and that their violation constitutes a different sort of moral wrong.

In *Justice for Hedgehogs* Dworkin rejects both accounts arguing that they fail to satisfy the conditions for interpreting social practices he developed in *Law’s Empire* and other works. The conception of human rights he favors conceives of human rights as conditions protecting human dignity against contempt on the part of governments. Thus, according to him, human rights are violated when the behavior of governments proves that they refuse to treat their subjects as human beings whose dignity fundamentally matters. Since, for obvious reasons, adopting such attitude undermines the authority of governments, human rights constitute, in turn, conditions for political legitimacy. I will refer to this conception as the contempt account of human rights.

In this paper I argue that, in spite of its appeal, the contempt account is an unsuitable interpretation of contemporary human rights practice. I start by briefly reviewing the conditions that any reasonable account of a social practice ought to met according to constructive interpretivism. Then I assess the three rival conceptions of human rights I have just introduced and maintain that the contempt account is misleading because it overlooks three decisive aspects of current human rights practice, namely: the criterion it adopts for identifying human rights; the scope it proposes for human rights norms; and the international dimension it assigns to human rights standards. Finally, I suggest an alternative, pluralist account of contemporary

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human rights. According to this view, human rights are not a monolithic practice deriving from a single normative source, but a complex activity constituted by three complementary components dealing with mutually irreducible concerns. My main expectation is to prove that even if the details of the pluralist account I will put forward may turn out to be partially unconvincing, it nevertheless offers a more promising framework for thinking about contemporary human rights practice.

Constructive interpretation and social practices

If contemporary human rights are an interpretive practice, constructive interpretivism is the recommended methodology to produce a normative account of them. In *Law’s Empire*, this methodology is presented as involving three complementary stages.

In the first stage, we must identify the material to be interpreted by defining the rules constituting the tentative content of the practice. This initial task may of course raise controversy as people holding different interpretations of a practice may have alternative views about its boundaries and present rules. Having said this, I think it is not problematic to assume that the material for interpreting human rights practice will be provided by the Charter of the United Nations, the Universal Declaration of Human Rights, the main international covenants, the general comments issued by international human rights bodies, the decisions made by human rights courts, and some convictions widely shared by its participants, such as the idea that human rights are universal and derive from the intrinsic dignity of the human person.

In the second stage, we must propose a general goal for the practice that justifies the material we have identified. This will consist in an argument that explains why a practice like this is

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valuable and worth pursuing. In order to produce such argument, the interpreter cannot simply rely on the beliefs and opinions of the participants. Interpreting a social practice is not a matter of conducing opinion surveys. Among other things, this is so because when a practice becomes interpretive, its participants disagree about its point and purpose and may be confused about its constitutive aims. Similarly, the task of the interpreter is not to explain what participants think about a practice. It is rather to explain what the practice is really about. Therefore, the interpreter has no choice but to propose a candidate goal herself, looking at the material she gathered through the lens of her own general convictions.

Finally, in the third stage, we must adjust our understanding of the practice and its rules in light of the justification we have proposed for it. If we conclude, for instance, that human rights are about justifying humanitarian interventions, then their content should be dramatically reduced in order to accommodate the autonomy of political communities and avoid a perpetual state of war among nations. If we conclude, in contrast, that human rights express standards of political justice, they may be considered to include plenty of social rights as well as general guidelines for a fair distribution of income and wealth.

There are in turn two general constraints that any constructive interpretation of social practices must satisfy. The first constraint is justification. This requires that the proposed interpretation presents the practice as serving some valuable goal. If a practice cannot be so presented, then it performs no valuable task and there may be no reason for continuing it. Imagine, for example,

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5 Ibid., p. 66.
6 Ibid., p. 63.
7 Ibid., p. 66.
8 Ibid., p. 66.
that after careful reflection we concluded that human rights are just an instrument of domination that Western nations use to undermine the independence of other states and spread their own political culture all over the world. Then human rights practice would be condemnable and we should firmly suggest to abandon it. In addition to this, the proposed goal must be valuable independently of the practice itself, in the sense that we should be able to understand its value even if the practice was unknown to us or did not exist. Otherwise, the justification proposed would be circular and lack real justificatory power.9

The second constrain is fit with the practice. This implies that the goal we have proposed must manage to justify the most salient features of the practice as we now encounter it. In the case of human rights, the proposed goal must help us understand, for example, why they include most of the rights proclaimed by human rights instruments and why they are used as standards for assessing the conduct of governments. Of course, no conception needs to accommodate the whole material identified in the fist stage of the interpretive process. But unless it succeeds at illuminating a considerable amount of it, the proposed account will be completely irrelevant and have no theoretical authority over the practice.

This brief review of the interpretivist methodology will help us assess the rival conceptions of human rights I have introduced, including the contempt account suggested by Dworkin. This is the task I undertake in the next two sections.

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**Human rights, political legitimacy and dignity: the contempt account**

In *Justice for Hedgehogs*, Dworkin rejects the natural rights approach to human rights arguing that it cannot justify human rights practice on genuine principled grounds. As already explained, this view understands human rights as norms aimed at protecting some fundamental interests of the human person. According to Dworkin, the problem with this view is that most political rights serve this very same goal.\(^{10}\) This is why they trump the promotion of the common good.

Consider, for instance, the right to a fair share of the income produced through social cooperation. This right is no doubt crucial as income has a determining impact over life prospects. Or consider the right to same-sex marriage. What can be more fundamental than being able to marry the person we love? In view of these considerations, Dworkin concludes that any attempt to define some more fundamental layer of rights by reference to its substantive content is unavoidably arbitrary and doomed to fail.\(^{11}\)

It may of course be countered that human rights should protect every single right that is important for human beings, including the right to a fair distribution of income. This move would be too costly, however. If human rights include everything that is valuable, they will not constitute a privileged domain in our moral hierarchy.

Furthermore, even if it is somehow possible to identify some group of human interests as more fundamental than others on principled grounds, the natural rights approach will continue to be problematic. This is so because the tenet that human rights are rights that people have against their governments is an integral part of current human rights practice. Under present

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\(^{11}\) Ibid, pp. 334-335.
international law, monitoring mechanisms are exclusively aimed at supervising the conduct of governments and petitions of individuals are only accepted if they are directed against states. Likewise, many of the rights proclaimed by current human rights doctrine, such as the right to due process, nationality, and political participation, presuppose the existence of modern political institutions and would have no clear addresses in their absence.\textsuperscript{12} Therefore, human rights cannot be legitimately reduced to claims that human beings have against all other agents just in virtue of their humanity. They are not the same as natural rights.

The political approach, on the other hand, is deficient in terms of fit. This is so because in view of the immense suffering they inflict on the population of the target state, grave international sanctions are authorized only to stop truly barbaric acts, such as mass killing, genocide or savage discrimination. Consequently, rights to education, housing, health care, freedom of expression, due process and equal pay for equal work would not count as true human rights under this view.\textsuperscript{13} This is not to deny, of course, that present human rights doctrine may be overinflated. But the fact that it recognizes such an expansive set of demands suggests that advocates of the political approach may seriously misunderstand the goal that contemporary human rights intend to serve.

In his recent book *The Idea of Human Rights*, Charles Beitz has tried to avoid this drawback by proposing to understand human rights not as trumps over sovereignty but, more broadly, as matters of international concern. Along these lines, he defines human rights as norms regulating


\textsuperscript{13} *Justice for Hedgehogs*, p. 334.
the treatment that governments may give to their own peoples, the violation of which would justify some kind of response by outside agents. This response, however, is not limited to the imposition of economic or military sanctions on the offender. It may also consist in offering the violating government incentives to improve its human rights record, providing poor societies with assistance, or revising any aspects of the global order that may be interfering with human rights satisfaction around the world.\textsuperscript{14}

Unfortunately, this reformulation of the political approach is vulnerable to important objections. It has been argued, for instance, that human rights standards play many other roles besides regulating the treatment that governments may give to their residents. At the same time, if human rights are matters of international concern, this is so because they serve some more fundamental goal, such as, for example, protecting our status as human persons, laying out conditions for political legitimacy, or ensuring human beings the conditions for leading decent lives. It is this more fundamental goal what explains the remaining characteristics of contemporary human rights, including their capacity to attract the attention of the international community. Thus, defining human rights as matters of international concern is to provide an empty characterization.

The account of human rights that Dworkin suggests is more promising. It recommends to understand human rights as deriving from a more abstract right to be treated with a certain attitude by our government, namely: a right to be treated as a human being whose dignity fundamentally matters.\textsuperscript{15} This is a right that governments may honor even if they misunderstand


what respecting human dignity exactly requires, or if they are not completely fair in light of our preferred conception of justice.\textsuperscript{16}

According to Dworkin, the idea of dignity is composed of two complementary principles. The first principle holds that each human life has an intrinsic value and that it therefore matters how it goes. This means that once a human life has started it is relevant whether it is a successful performance rather than a wasted opportunity.\textsuperscript{17} The second principle, in turn, holds that each person has a special responsibility for realizing the success of her own existence by making a judgement about what kind of life would be good for her. As a result of this human beings must have a reasonable chance to autonomously decide how to lead their lives and to live in accordance with that autonomous decision.\textsuperscript{18}

These two principles of dignity can of course be interpreted in several ways. This is why different societies may have alternative conceptions of justice.\textsuperscript{19} Some may think, for instance, that respecting human dignity requires an egalitarian distribution of wealth, while others may believe that it simply requires providing people with the means for subsistence. Some may think that respecting human dignity requires forbidding death penalty, while others may believe that death penalty is an acceptable way of punishing the most abhorrent crimes. Some may think that respecting human dignity requires same-sex marriage, while others may believe that denying homosexuals the right to marry does not undermine their dignity as human persons. Deciding what respecting human dignity amounts to invites interpretive reasoning.

\textsuperscript{16} \textit{Justice for Hedgehogs}, p. 335.

\textsuperscript{17} Ibid., p. 336.

\textsuperscript{18} \textit{Is Democracy Possible Here}, pp. 9-10.

\textsuperscript{19} \textit{Justice for Hedgehogs}, p. 335.
Although political communities may have divergent conceptions of what respecting human dignity requires, not everything is up for grabs, however. Some behaviors are so egregiously wrong that they cannot be justified as a good faith attempt to treat human beings as persons whose dignity fundamentally matters. For instance, a government that supposes that some people are inferior, or that condones assassination, rape or torture no doubt violates the first principle of dignity. Likewise, a government that does not recognize rights of free expression, conscience, political activity and subsistence violates the second principle, by making it impossible for those in its power to take responsibility over their own existence. Therefore, these behaviors would count as undeniable human rights violations under the contempt account.\(^\text{20}\)

Finally, it is important to mention that, according to Dworkin, human rights constitute conditions for political legitimacy. In his discussion of political legitimacy, he argues that we only have an obligation to obey our government provided its regulations can be reasonably interpreted as a good-faith attempt to respect our dignity as human beings.\(^\text{21}\) Consequently, when governments satisfy human rights, they are morally authorized to rule over their subjects even if they are not completely fair. When, on the contrary, their policies show contempt for the dignity of human persons, their authority is undermined and people may engage in protest, civil disobedience and revolution.\(^\text{22}\)

The contempt account of human rights is certainly appealing. It accommodates many of the rights proclaimed by current human rights doctrine and provides a principled criterion for sorting

\(^{20}\) *Justice for Hedgehogs*, p. 336; *Is Democracy Possible Here?*, p. 42-44.

\(^{21}\) *Justice for Hedgehogs*, p. 321.

out disagreements about their true content. If we want to know what rights are human rights, we simply need to figure out what behaviors on the part of governments would prove that they reject their responsibility to treat their people as human beings whose dignity fundamentally matters. Likewise, it proposes a distinct role for the concept of human rights, a role that explains why human rights are different from other relevant political notions, such as justice, legality and integrity. Finally, the contempt account justifies human rights practice by reference to a genuine moral value. If human rights are about preserving human dignity against contempt on the part of governments, there are compelling reasons for continuing human rights practice.

**Is the contempt account suitable?**

In spite or its advantages, I want to suggest that the contempt account is an unsuitable interpretation of contemporary human rights. The reason for this is that it overlooks three decisive aspects of current human rights practice, thereby misconceiving the goals it aspires to serve.

The first aspect refers to the criterion for identifying human rights. As Dworkin recognizes, current human rights doctrine proclaims an expansive set of rights. This includes rights to marriage, to social security, to health care, to private property, to maternity leave, to form trade unions, and to leisure time, among others. It is evident that a government that neglects these rights does not become illegitimate or express contempt for human dignity for that reason. It may simply embrace a misleading good-faith understanding of the two principles of human dignity just sketched. In fact, except for very specific cases, when human rights courts and bodies blame a state for infringing the human rights of their residents, they do not imply that they have become illegitimate or that their authority over their residents has been compromised.
They simply imply that some of the rules or policies they have adopted are unsatisfactory.\textsuperscript{23} suggests that, contrary to Dworkin’s view, the goal of current human rights practice is not simply to prevent bad faith on the part of governments, but also to correct mistaken interpretations of what respecting human dignity amounts to.

This is not to deny, of course, that current human rights doctrine may require revision. However, regarding most of the rights it proclaims as real human rights has proven valuable as it has helped governments treat their residents as they deserve to be treated. Furthermore, the conception of human dignity that human rights documents articulate is an appealing one and it has been voluntarily endorsed by nations with different historical developments, political traditions and cultural backgrounds. Therefore, before debunking many of the rights recognized by present international law to a lower category, it may be convenient to look for a more encompassing criterion for identifying human rights.

The second aspect that the contempt account overlooks refers to the scope that human rights norms are considered to have under current international law. If, as Dworkin thinks, human rights merely aim to regulate the treatment that governments may give to their subjects, then they are silent regarding the conduct of other agents. Yet the function of human rights cannot be so reduced. According to international law experts, human rights also constrain the activities of cuasi states agents, including armed groups, guerrillas and occupation forces in control of a territory; they restrict the conduct of states acting across borders; and they provide guidelines for the behavior of global governance institutions.\textsuperscript{24}


To see why this understanding of the scope of human rights norms is cogent, imagine that during its recent invasion of Afghanistan, the UK army tortured, killed or prosecuted political dissidents. Or suppose that the US imposed an illegitimate economic embargo on a poor society with terrible consequences for the life prospects of its residents. Or imagine, finally, that the IMF pushed the government of a developing country to reduce social programs, leaving its most vulnerable population unprotected. It is evident that these actions seriously hamper the dignity of human beings and are relevant from a human rights perspective. Even if they are not on a par with human rights violations they constitute a human rights infringement of some sort and we should be able to denounce them by means of human rights language.

Finally, the third aspect that the concept account overlooks refers to the international dimension of human rights. Although there is wide agreement that the main responsibility for fulfilling human rights corresponds to governments, under current human rights law the international community also bears some explicit obligations regarding their satisfaction. The Charter of the United Nations, for instance, commits the international community to “achieve international cooperation… in promoting and encouraging respect for human rights”\(^{25}\). Along the same lines, the Universal Declaration maintains that all nations shall strive by progressive measures, national and international, to secure the universal and effective recognition of human rights, and proclaims a right to an international order where they can be fully realized.\(^{26}\) In turn, the International Covenant on Economic, Social and Cultural Rights commits its parties to “take steps, individually and through international cooperation… with a view to achieving

\(^{25}\) Charter of the United Nations, Chapter 1, art. 3.

\(^{26}\) Universal Declaration of Human Rights, Preamble and art. 28 respectively.
progressively [their] full realization". Finally, the Vienna Declaration, emphatically reinforces the need to cooperate across borders to secure the universal satisfaction of human rights. The idea that the international community is bound to work together to achieve the realization of human rights around the globe is an extremely important aspect of contemporary human rights practice and constitutes a fundamental cornerstone of contemporary international law.

The problem with the contempt account is that, by defining human rights as referring only to the treatment that governments may give to their peoples, it is unable to account for this key feature of contemporary human rights. Of course, if people are massively murdered or severely oppressed by a dictator, other nations may have a duty to rescue them if they can do so at a reasonable cost. But the principle of international cooperation for human rights requires more than this. It requires the international community to monitor the activities of governments; to deter its members from contributing to human rights violations abroad; to prevent global governance institutions from undermining human rights satisfaction; and to take proactive steps to improve the capacity of poor societies to fulfill the human rights of their residents.

In view of the preceding considerations, some authors have suggested to understand current human rights practice in a completely different way. According to them, contemporary human rights stem from an agreement voluntarily undertaken by states to make it sure that some

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27 International Covenant on Economic, Social and Cultural Rights, Preamble.

28 Vienna Declaration and Program of Action, Preamble.


fundamental interests of human beings are satisfied on a global scale. Upon this reading, human rights have an international rather than domestic origin and governments have a duty to fulfill them because they have committed themselves to do so in front of the international community.

While this conception may explain why the international community has extensive responsibilities for the global fulfillment of human rights, it is problematic for other reasons. If the normative source of human rights obligations is a mere agreement among nations, human rights become completely dependent on a contingent historical event. As a result of this, any atrocities committed by governments before the adoption of the Universal Declaration, such as those perpetrated by the Nazi regime, would not constitute human rights violations. Similarly, if the international community decided to abandon current human rights practice in the future, human rights discourse would become meaningless an cease to exist. This conclusion is certainly incompatible with our deepest convictions about human rights, especially with the idea that they derive from the intrinsic dignity of human persons. What we need is an account of human rights that succeeds at explaining why they have normative implications beyond borders without undermining their outstanding domestic relevance and their universal nature.

**Unpacking human rights: the pluralist account**

In this section I want to suggest that contemporary human rights are a complex social practice combining three complementary components. Although these components aim to promote a same overall goal, they point to distinct moral concerns, involve different moral relations, and have alternative normative roots. Thus, interpreting current human rights practice takes

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understanding these three complementary modules and explaining how they merge and interact.

The first component of current human rights practice articulates the conditions that agents wielding sovereign political authority ought to fulfill in order to treat their subjects with the minimal concern and respect they deserve as human beings. There are several aspects of this definition that I want to clarify.

First, by sovereign political authority I refer to a particular kind of authority. This is the authority to make final decisions on the distribution of rights, resources and obligations among members of a human community. Thus while human rights standards apply to occupation forces and armed groups in control of a territory, they do not apply in principle to transnational corporations, terrorist cells or individuals. The reason for this is that sovereign political authorities administer a unique kind of power, a power that no other agent wields. This is the power to decide what ideas we may express, what life plans we may legitimately pursue, what burdens we must shoulder, and what personal commitments we may develop, among many other things. Therefore, it makes plain sense to impose special demands on them.

Second, in the account I am suggesting human rights are not conditions for mere political legitimacy. They rather express a conception of how governments must behave to treat people


with the minimal concern and respect they deserve as human beings. This requirement is satisfied when governments fulfill five fundamental interests of the human person, namely:

(a) an interest in life, security and bodily integrity;
(b) an interest in avoiding discriminatory, arbitrary and exploitative treatment;
(c) and interest in leading a self-shaping life;
(d) an interest in achieving an adequate standard of living; and
(e) an interest in equal, meaningful political participation.34

These five fundamental interests configure abstract rights that individuals hold against sovereign authorities in all times and places. In turn, these abstract rights may help us articulate more specific lists of rights depending on the prevailing social, historical and economic circumstances.35 In present conditions they may lead to a list of rights similar, though not identical, to the one recognized by current human rights doctrine. In other scenarios —such as, for instance, an ancient empire, a medieval hamlet, or a future human settlement in Mars— they may lead to alternative sets of provisions.

Considered together, these fundamental interests provide an interpretation of the notion of human dignity invoked by human rights instruments. They result from generalizing from the rights proclaimed by them and are fully consistent with the normative image of the human person as a free, equal and autonomous being they depict. As long as this picture of the human

34 For a similar, though not identical, conceptions of the fundamental interests that human rights aim to protect, see James Nickel, Making Sense of Human Rights, Malden, MA: Blackwell Publ, 2007, pp...

person is appealing independently of current human rights doctrine and may be accepted by peoples endorsing alternative reasonable moral perspectives, it may work as a reliable starting point for thinking about the content of human rights. So, in order to know whether a certain right qualifies as a human right, we need to decide whether, under prevailing circumstances, it is fundamental for satisfying the high order interests I have identified.

It is important to make it clear, however, that different political communities may have alternative understandings of what treating people with concern and respect implies. This is why they may have alternative conceptions of political justice. Swedes think, for example, that treating people with equal concern and respect requires real equality of opportunities and a significant redistribution of income; Argentines think that it requires free university education and full medical coverage; Frenchs think that it requires seven hours workdays; Americans thinks that it requires a right to burn flags in political demonstrations. There is nothing wrong with this. Human rights articulate just a minimal conception of what treating people with concern and respect amounts to. Provided they satisfy this threshold, political communities are free to promote their own understanding of political justice, maximize the common good and pursue their own collective goals.

Finally, I want to mention that this first component of human rights practice is purely conceptual. This means that governments would have an obligation to satisfy these five fundamental interests even if there were no human rights instruments or if a vigilant international community were missing. Under such scenario they would of course enjoy relative freedom to determine what satisfying these fundamental interests requires in light of their own political traditions and cultural backgrounds. Yet unless they adopted a reasonable interpretation of this fundamental demand, they would violate the human rights of those in their power. Even though taken as a
single package human rights are not conditions for political legitimacy, when human rights violations are grave, generalized and systematic the legitimacy of governments may be eroded both internally and externally and people may fairly challenge their authority and seek to overthrow them.

The second component of current human rights practice, in turn, does not refer to the treatment that governments may give to their residents. It rather expresses conditions for the legitimacy of an international order that sanctions the existence of a system of states and recognizes them sovereign authority over their population and complete control over their borders and natural resources. As long as this order is coercively imposed on human beings, it calls, of course, for a moral justification.\textsuperscript{36}

I suggest that such order is legitimate provided it meets two basic conditions. First, the international community must look after the realization of human rights everywhere by monitoring the conduct of governments and, if necessary, imposing progressive sanctions on offending states. Otherwise, the sovereign authority it recognizes to states would constitute a permission to mistreat human beings and subordinate their high order interests to the promotion of any goals set by those in power, whether political majorities or ruling elites. Thus, under the present international order, human rights are matters of international concern. However, what makes them human rights is not that they deserve international attention. It is rather the other way around: they deserve international attention because they are human rights in the first place. This is why they would keep their domestic relevance even if the international order was completely different from the one we now encounter.

Second, the international community must also make it sure that governments do not contribute to human rights abuses abroad and that global governance institutions refrain from undermining the capacity of states to fulfill the human rights of their residents. For that purpose it must sanction any government causing human rights to be unfulfilled in other countries and force international institutions, such as the International Monetary Found, the World Bank and the World Trade Organization, to take human rights standards into account when defining their rules and policies.\textsuperscript{37} No international order that neglects this general obligation can be acceptable from a moral point of view as it may render it impossible for states to live up to their most fundamental moral commitments.

Finally, the third component of current human rights practice refers to what sovereign political communities have freely agreed to do for each other under present international law. As already explained, by signing human rights documents nations have voluntarily undertaken a responsibility to take proactive steps to achieve the realization of human rights all over the world. According to recent jurisprudence, international declarations, and general comments issued by several human rights bodies, this compels them to progressively enhance the capacity of all states to deliver on the human rights of their residents.\textsuperscript{38} Consequently, the international community may, among other measures, provide direct assistance to societies lacking the means to fulfill human rights; adopt trade regulations favoring the development of poor societies; implement policies making essential drugs affordable to burdened peoples; and ensure a global economic order geared towards the reduction of extreme poverty.


\textsuperscript{38} See Salomon, 	extit{Global Responsibilities for Human Rights}, chapter 2.
The obligations that the international community bears for the universal realization of human rights are, of course, of a second order nature. They are not obligations to directly ensure human rights fulfillment all over the world, but obligations to contribute to the capacity of sovereign political authorities to deliver on the human rights of their residents. Likewise, they are prima facie obligations which may be counterbalanced by other considerations, including the capacity of the international community to effectively discharge them and the responsibilities that states have towards their own residents.

It is evident that the three components of human rights practice I have identified contribute to a same overall goal: they aim to ensure that political authorities treat those in their power with the minimum concern and respect they deserve as human beings. However, they contribute to this general goal in specific ways, have distinct moral sources, and involve independent sets of obligations. If any of these components is neglected by an interpretation of human rights practice, important aspects of it will become mysterious, unintelligible and impossible to justify.

The complex account of contemporary human rights I have sketched, satisfies the three constraints laid out by constructive interpretivism. It satisfies the justification constraint because it proposes a genuine goal for human rights practice. Furthermore, this goal is intelligible and valuable independently of current human rights practice itself. Likewise, it satisfies the fit constraint because it accommodates the most salient features of current human rights practice, including many of the rights proclaimed by human rights instruments, the several functions that human rights norms are considered to perform, and the conviction that human rights are universal and derive from the intrinsic dignity of the human person. Finally, it explains why human rights play a distinct role in moral thinking. From this perspective, human rights are not
about justice, legality or legitimacy, but express a minimal conception of what treating people with the concern and respect implies.

There is, nevertheless, a potential objection I want to consider before concluding. This objection claims that my view is not a constructive interpretation but rather a mere description of current human rights practice that lacks any critical capacity.

This objection is misleading, however. It is true that the pluralist account incorporates and justifies many relevant features of present human rights practice. This is actually one of its main advantages. Yet this does not vanish its critical power altogether. Some of the rights recognized by present international law may not constitute conditions for treating people with the minimum concern and respect they deserve as equal, free and autonomous beings. Thus people may not have a real human right to periodic holidays with pay, maternity leave, or the highest attainable level of physical and mental health. Conversely, some rights not recognized by human rights instruments may turn out to be real human rights. This may be the case, for instance, with the right to abortion, same-sex marriage or fully democratic institutions.

Similarly, both the scope and international dimension of human rights norms are still under intense academic debate. As we saw, some theorists argue that human rights may be violated by non-official agents, including transnational corporations, terrorist cells and individuals. Others, instead, maintain that they are exclusively addressed at states in their domestic capacity. In this vein, directives of international financial institutions have insisted during the past decades that their organizations are not supposed to abide by human rights standards but

simply to promote their own constitutive aims in a neutral, non-political way.\textsuperscript{40} The pluralist account I have suggested may provide us with orientation by discrediting these familiar interpretations of human rights practice. Even though human rights refer to the treatment that governments may give to their residents and do not apply to the activities of non-state actors, they have normative implications for many other political agents, including, of course, global governance institutions and states acting across borders.

**Concluding remarks**

In this paper I have considered the main conceptions of human rights available in the specialized literature and argued that they fail to satisfy the conditions for interpreting social practices. In particular, I claimed that the contempt account put forward by Dworkin is vulnerable to the same objections he directs against the natural rights model and the political approach. Finally, I suggested an alternative, pluralist account for thinking about human rights. This account succeeds at justifying current human rights practice by pointing to a genuine moral concern, it manages to accommodate many of its most salient characteristics, and it reinforces their interpretive nature.

Most importantly, I have shown that, contrary to what most human rights theorists appear to assume, contemporary human rights are not a monolithic practice deriving from a single normative root or dealing with a unique kind of moral concern.\textsuperscript{41} They rather combine three complementary layers. The first layer refers to how governments must behave in order to treat those in their power with the minimal concern and respect they deserve as human beings; the

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  \item \textsuperscript{40} Ssenyonjo, “Non-State Actors and Economic, Social and Cultural Rights”, p. 119.
  \item \textsuperscript{41} A remarkable exception to this trend is Allen Buchanan’s recent book, *The Heart of Human Rights*, Oxford: Oxford University Press, 2013.
\end{itemize}
second layer refers to the conditions that an international order ought to satisfy to be morally justified; and the third layer refers to what sovereign political communities have agreed to do for each other when joining the international community under the auspices of current international law. Interpreting human rights involves understanding these three complementary components, making decisions about what they require, and explaining how they combine and interact. Any account overlooking the complex nature of contemporary human rights practice will produce a truncated conception of them. So even if you disagree with the details of the pluralist account I have presented here, you may use it as a general framework to produce your own conception of human rights practice.