

LEGAL POSITIVISM AND HUMAN RIGHTS: THE INTEGRATION OF HUMAN VALUES THROUGH CONTRACTUAL RATIONALITY AND MODERN LEGAL MECHANISMS

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ABSTRACT

This article examines the theoretical relationship between legal positivism and human rights by rejecting the simplistic understanding that positions the two as inherently antagonistic entities. Departing from the normative-dogmatic analysis method and critical legal philosophy, this paper explores the epistemological basis of legal positivism and its implications for normative human rights claims. This article argues that positivists' rejection of human rights is not aimed at the human values it contains, but at the ontological status of human rights as a law that is claimed to apply outside the institutional mechanisms of the state. Legal positivism, as formulated by H.L.A. Hart and Hans Kelsen, rejects the legitimacy of law derived from external morality or metaphysics, but still leaves room for the internalization of moral values through formal recognition procedures. Furthermore, this article analyzes the rationality of the integration of human rights in a positivist state through John Locke's theory of the social contract and modern legal mechanisms in the form of constitutionalization of rights, legislation, and the binding of international law. By elaborating on the concepts of the rule of recognition, Grundnorm, and legal principles as normative reasons in interpretation, this paper emphasizes that the integration of human rights is not a deviation from positivism, but an evolutionary consequence of the modern legal system. The conclusion of this article states that legal positivism, in its institutional and reflective form, provides the most stable juridical foundation for the enactment and enforcement of human rights.

Keywords: Legal Positivism, Human Rights, Contractual Rationality, Constitutionalism, Normative Intergration.

INTRODUCTION

1. Background

The debate between legal positivism and natural law, which is the basic foundation for the idea of Human Rights, is one of the conflicts that have occurred in the history of modern legal philosophy. This conflict is not merely about the difference in the sources of law, but concerns the struggle of two worldviews about the nature of law itself: whether law is a product of the will of power or a manifestation of human natural values.

Legal positivists such as Hans Kelsen built the argument that law derives its legitimacy only from legitimate authority, not from morality or justice. In this paradigm, law is a closed normative system, where the validity of norms is measured by formal criteria, not their substance (Hans Kelsen). This view arose from the spirit of rationalism and empiricism in the 19th century that rejected the metaphysical element in the science of law.

On the contrary, the idea of human rights is based on the natural law tradition which affirms that human beings have inherent natural rights before the existence of the state. These rights are universal and cannot be taken away by any positive law. Within this framework, positive laws that violate human dignity are considered morally invalid.

The conflict between the two paradigms became apparent when the totalitarian regimes of the 20th century used positive law to legitimize atrocities and genocide. The tragedy shook confidence in legal formalism and raised moral demands for law to no longer be separated from substantive justice.

The fundamental question that arises then is: is it possible to build a legal system that maintains formal certainty as desired by positivism, but also accommodates human values as championed by the idea of human rights? It is at this point that the relevance of John Locke's theory of the social contract becomes important, as he places the legitimacy of state power on the protection of human natural rights.

Thus, this paper not only reviews the positivists' opposition to human rights conceptually, but also tries to propose a philosophical synthesis that allows the integration of human values into a positive legal framework without sacrificing rationality and legal certainty.

2. Problem formulation

- 1) What are legal positivists really opposed to the idea of human rights—whether in terms of its form, source, or principle of validity?
- 2) How can the substance of human rights be integrated into the positive legal system through John Locke's approach to the social contract?

3. Theoretical framework

A. History of positivism

1) From Comte's Attack on Theology/Metaphysics to the Positivist Spirit

Auguste Comte formulated positivism as a systematic reaction to two forms of thought that he thought inhibited science: theology (explanation through the will or super-natural entity) and metaphysics (speculative abstraction that cannot be tested). Comte demanded a discipline of thought bound to observation, empirical causality, and scientific rules; All claims that are supra-empirical must be abandoned. This statement is not merely epistemology: it generates an intellectual ethos that rejects unverifiable sources of truth and places social/empirical facts as the only valid basis for any normative theory.

The consequence: if law is to be understood "scientifically", then it must be examined as a social fact (what it is), not as a metaphysical demand of what it should be. From this arises the impulse to separate the law from the normative claims of metaphysics — that is, the seeds of legal positivism.

2) Early Legal Positivism in England: Bentham → Austin → Hart

Jeremy Bentham: utilitarianism and codification as a normative-instrumental basis

Bentham named the law as an instrumental tool to achieve the greatest happiness (principle of utility). He criticized the idea of natural law as vague and useless for policymaking; Laws must be evaluated according to their social consequences and formulated clearly (codification). From Bentham was born the spirit that law is a rational product of human beings that can and must be reconstructed for measurable social goals.

John Austin: law as command theory

Austin formulated the thesis that positive law is a "command" from a sovereign ruler to the commanded, accompanied by the threat of sanctions if they are not obeyed. The validity of a law is determined by its source—political authority—not by its moral substance. Austin emphasized a firm separation between validity (systemic validity) and legitimacy/justice (moral values). This became an explicit form of early British positivist orientation.

H. L. A. Hart: theoretical correction, not the return of morality

Hart sharpened and reconstructed positivism: he rejected Austin's simplification, but maintained a separation between law and morality. Hart's critical contributions are: (a) the division between primary rules (rules that govern behavior) and secondary rules (rules about rules — e. g. rule of recognition, rule of change, rule of adjudication), (b) the concept of rule of recognition as a social criterion for recognizing legal norms, and (c) the difference between internal vs. external points of view of norms. Hart points out that positivism is more complex than just "punishment + command"—it is a social-analytic theory of legal institutions, still rejecting the obligatory conceptual connection between law and morality.

3) German/Austrian "Pure" Positivism: Hans Kelsen

Hans Kelsen proposed the Pure Theory of Law to "purify" legal analysis from political, moral, and metaphysical elements. Kelsen defines law as a hierarchical system of norms: each norm derives its validity from the higher norm all the way to the Grundnorm (hypothetical basic norm). Kelsen rejects the claim that law should be referred to external moral values; Validity is only internal to the hierarchy of norms themselves. This theory emphasizes the positivist orientation while providing a formal normative framework that is very systematic.

Principles of Legal Positivism —

Here are the postulates that you can list as a theoretical foundation. Each postulate is accompanied by a brief explanation and references to classical literature.

1. Source Thesis

The law is what is established by an authoritative source; The validity of a law is determined by its normative origin, not by its value.

— Explanation: Validity is measured causally-historically (who makes the norm) and institutionally (whether the norm is recognized by the rules of recognition). (Austin; Hart).

2. Dalil Pemisahan (Separation Thesis / Law-Morality Distinction)

There is no necessary conceptual relationship between what constitutes law and what constitutes good morality.

— Explanation: A law can still be valid even if it is very unjust; Moral judgment is independent of the analysis of validity. (Austin; Hart).

3. Formality & Legal Certainty

The law must be clear, predictable, and enforceable with formal procedures to ensure rule-governedness. — Explanation: Emphasizing codification (Bentham), secondary rules (Hart) and hierarchical structures (Kelsen) for the sake of certainty.

4. Dalil Non-Metafisika (Anti-Metaphysical / Empiricism)

Legal analysis must be based on social facts and institutional structures, not on unverified metaphysical claims or natural rights.

— Explanation: Heritage Count push deny Sources
supra-empirical in legal theory

B. Human Rights Theory: From the Lex Aeterna to the Social Contract

1. Human Rights as Inherent Rights due to Dignity

Conceptually, human rights are understood as rights inherent in every individual because of their inherent rights derived from human dignity.

Dignity is the ontological foundation of human rights—it marks that human beings, simply because of their existence as rational and free beings, have intrinsic values that should not be degraded by any power. From this arises the doctrine that human rights are not granted by the state, but are recognized by the state as a moral consequence of human existence itself.

This concept originates from the natural law tradition, which considers that in human relations are embedded the basic norms of goodness and justice. In the history of legal philosophy, the idea developed through three major phases: theological (Aquinas), secular (Grotius), and political (Locke).

2. Thomas Aquinas: Lex Aeterna dan Lex Naturalis

Thomas Aquinas, in his *Summa Theologiae*, stated that law has four hierarchical levels: *lex aeterna* (God's eternal law), *lex naturalis* (law of nature), *lex humana* (human law), and *lex divina* (divine revelation).

According to him, *lex naturalis* is the participation of human reason in eternal law (*participatio legis aeternae in rationali creatura*). That is, man through his intellect can understand the basic principles of morality that come from the divine order.

In this context, human rights are not merely the result of social agreements, but the rational emanation of the divine will reflected in the practical human mind. The principle of "to do good and to shun evil" became the first rule of natural law (*bonum est faciendum et prosequendum, et malum vitandum*).

Therefore, human dignity in Aquinas's view stems from his rational ability to recognize and obey the laws of nature—and from this the legitimacy of basic rights derives.

However, this theological foundation of Aquinas faces modern epistemological criticism: what if God's existence is not universally accepted? Does the law of nature still have normative force? This is where Hugo Grotius did a conceptual "cleansing".

3. Hugo Grotius: The Secularization of Natural Laws

Hugo Grotius in *De Jure Belli ac Pacis* (1625) took a radical step by asserting that the laws of nature would still apply even if we assumed that God did not exist (*etiamsi daremus, Deum non esse*).

This statement is not atheistic, but rather a rational strategy to establish the autonomy of natural law from a theological basis. Grotius wanted the principles of justice to be self-evident through human ratio, not by divine command.

Thus, natural rights no longer depend on revelation, but on human nature—the rational nature of man that is universal and intellectually recognizable.

It was this step of Grotius that ushered natural law into the secular foundation for the modern concept of human rights, because he affirmed that the values of justice and human dignity are objective and universal, without the need for specific religious legitimacy. The philosophical implications were enormous: Grotius relinquished the rights of nature from theistic metaphysics and made it a universal moral rationality, which could be the basis for social agreements between human beings without the need for the presence of transcendence.

4. John Locke: The Social Contract and the Politicization of Natural Rights

John Locke continued Grotius's legacy by providing a political mechanism by which natural rights could be realized in social practice. In *Two Treatises of Government* (1690), Locke asserted that man in the "state of nature" has a natural right to life, liberty, and property.

However, those rights are fragile when there is no shared authority to guarantee them. Therefore, human beings form a social contract—ceding part of their freedom to the state in order for the state to protect these natural rights.

This concept marks the transformation of natural rights into political rights: human rights acquire an operational form through positive law and political structures. A state that violates these rights automatically loses its legitimacy and can be sued, for violating the social contract.

With Locke, human rights were no longer just a moral idea, but a criterion for the legitimacy of power and law. This was the starting point for the birth of the principle of modern constitutionalism, which demands that positive law be subject to human dignity.

5. Basic Principles of Human Rights (Synthesis)

Dalil (Ontologis-Moral):

Human rights are derived from the dignity inherent in human beings as rational and moral beings; this dignity is natural, not the creation of the state.

(Aquinas)

Dalil (Rasional-Universal):

Natural rights have rational validity independent of theological beliefs; it is universal and can be justified by human reason without the need for

Religious Authority. (Grotius)

Dalil (Political-Institutional):

Human rights gain effectiveness when they are integrated into legal and political structures through social contracts; The legitimacy of positive law depends on its ability to protect those

natural rights. (Locke)

Evidence (Systematic-Normative):

The enactment of positive law that is contrary to human dignity loses moral and rational legitimacy, because it fails to carry out the purpose of the law itself: *salus populi suprema lex*—human welfare and dignity as the supreme law.

(A synthesis of Aquinas–Grotius–Locke).

6. Conceptual Affirmation

Thus, the framework of human rights theory can be formulated as a rational genealogy from morality to legality:

- Aquinas gave the ontological and moral foundations (rights as part of divine law and human dignity).
- Grotius gave a secular rationality (rights as a law of a universal nature without theology).
- Locke provides a political mechanism (rights as the basis of state legitimacy and positive law).

Overall, it forms a triadic structure between dignity–rationality–institutionality that explains why human rights are universal, must be respected, and become a moral benchmark for any positive legal system. From this framework, it is clear that human rights are not just a moral discourse, but a legal category that is rooted in human rationality and guaranteed through socio-political institutions.

RESULTS AND DISCUSSION

1. The Essence of Positivist Opposition to the Idea of Human Rights

The debate between legal positivism and human rights cannot be understood simply as a conflict between "law and morality". It is a clash of two ways of thinking about the source of truth and legal legitimacy:

on the one hand, positivism asserts that law must have an empirical and formal basis, while on the other hand, the idea of human rights departs from the claim of morality inherent in human dignity.

The formulation of this problem demands a deeper reading: do positivists reject the essence of humanity (substance), or only the form of the source of law (theological/moral)?

To answer this, we must comb through the intellectual origins of positivism, its epistemological assumptions, and how major theorists placed human values within the legal framework.

A. Critique of Positivism: Rejection of Transcendental Sources, Not of Human Values

Positivists were born out of the spirit of Enlightenment and empirical rationalism, which rejected all forms of unverifiable metaphysical claims.

As Auguste Comte said, true science must abandon the theological and metaphysical stages, and rely only on the positive stage, which is knowledge based on empirical observation and the order of facts.

Law, if it is to be a "science" of law, must be subject to the same principle: it must be studied as an observable social phenomenon, not as a commandment of God or immeasurable morality.

This is the historical context of the emergence of John Austin in England in the 19th century.

Austin rejected the natural law tradition that was still mixed with theology and morality.

He argues that laws are only valid if they are established by a sovereign ruler (sovereign command theory).

Austin stated that the validity of the law does not depend on the value of justice, but on the origin of its authority. So he makes a strong distinction between the existence of law and

the moral goodness of law:

“The existence of law is one thing; its merit or demerit is another.”

For Austin, if the law is only valid because it is "good," then the law loses certainty, because the measure of good is subjective and variable.

He wanted to protect the law from moral uncertainty by upholding the principle of legal formalism—it was valid insofar as it was ordered by a sovereign ruler.

However, Austin did not reject the value of humanity. He only rejects the way natural law places moral values as the source of law. In the Austinian framework, human values can be accommodated after a rule becomes a positive law, not before. In other words, he rejected the metaphysics of its source, not its moral substance.

Positivism here is epistemological, not nihilistic: it refuses to judge law on external morality, but it opens up space for morality once law has become part of the formal system.

This is what Hart later called moderate positivism.

B. Legal Form: Between the Will of the Ruler and the Formal Structure

Classical positivists differ in their interpretation of the form of law, but agree on one thing: the law must have a formal form that can be institutionally verified.

1) Austin and Bentham: Law as a Product of Will

Jeremy Bentham, Austin's mentor, believed that law was "a rule made by rulers to achieve the greatest happiness of the greatest number."

Bentham was not only a utilitarian, but also a codifier of law: he believed that law must be systematically written and organized in order for legal certainty to be guaranteed.

For Bentham, the theory of natural law that talks about natural rights is simply "nonsense upon stilts" — nonsense that has no empirical meaning.

In this view, human rights that are not regulated in law are just a moral fantasy without the force of law.

2) Hart and Formal Structure

H. L. A. Hart, the next generation, refined Austin's formalism. He considered the theory of command too simple to explain the reality of modern law.

Through *The Concept of Law* (1961), Hart introduced primary rules (rules of conduct) and secondary rules (rules about how to make, change, and recognize laws).

The combination of the two results in what he calls the rule of recognition, which is a meta rule that determines whether a norm is recognized as a valid law in a system.

With this concept, Hart transforms positivism into a social theory of legal institutions: law is legitimate not because of "who rules", but because of the existence of a social practice of institutional recognition of norms.

The validity of the law is not a metaphysical command, but the result of social consensus in an observable institutional system.

Thus, for Hart and Kelsen, the denial of human rights does not arise because they reject "humanity", but because they reject the metaphysical or theological basis of that right.

To them, the claim that "human rights exist before the state" is an unscientific claim, because new laws exist within the framework of social institutions.

C. Legal Substance: Between Moral Values and Legal Certainty

The problem then arises: if law depends solely on form, how can we explain a law that is legally cruel and unjust?

This is where the sharp debate between positivists and non-positivists takes place.

1) Hart and Value Neutrality

Hart asserts that law and morality are indeed different, but not completely separate. In certain situations, the law can and should adopt moral values through legitimate formal mechanisms.

He called this soft positivism: morality can become the content of the law if it is institutionally recognized.

With this concept, Hart provides a way for law to internalize human rights values without leaving the framework of positivism.

For example, the recognition of human rights in the constitution or the ratification of international treaties does not mean that the state has become a adherent of the natural law; it simply indicates that moral values have been adopted into the positive legal system.

2) *Kelsen and Basic Norms*

Meanwhile, Hans Kelsen, through his Pure Theory of Law, views law as an autonomous system of norms. He rejects all attempts to judge the law from outside the legal system itself, whether from morality, religion, or politics.

However, Kelsen does not reject the substance of humanity; he simply demands that these values enter through legitimate normative mechanisms.

For example, if the principle of human rights is adopted into the constitution, then it is not valid because it is not because "fair", but because it is normatively derived from Grundnorm (the basic norm). Thus, for Kelsen, the value of humanity can become law, but only after it has been legitimized by the legal system itself.

D. The Paradox of Positivism: Justice Without Metaphysics

A paradox arises when totalitarian regimes such as Nazi Germany use positive laws to legitimize crimes against humanity.

All of Hitler's policies were essentially formally legitimate—yet they violated the universal moral conscience.

This phenomenon shakes the foundations of classical positivism and raises the question: Can an unjust law still be called a law?

1) *Radbruch and Ethical Reaction*

Gustav Radbruch, who was originally a believer in legal positivism, later formulated the so-called Radbruch Formula after World War II. He wrote:

“The conflict between justice and legal certainty should be resolved in favor of the law, unless the positive law is intolerably unjust or in deliberate disregard of equality, which is the core of justice.”

Radbruch realized that legal formalism without value could give birth to tyranny. He emphasized that when positive law is too contrary to human justice and dignity, then the law loses its moral legitimacy.

In other words, human values are the ethical limits for positivism.

2) *The Hart–Fuller Debate: The Internal Morality of Law*

Lon L. Fuller then challenged Hart in the famous debate of 1958.

Fuller asserts that the law cannot live without "internal morality"—that is, general principles of procedural justice such as clarity, consistency, and nondiscrimination. Hart responds that principles are important, but they remain internal to positive law, not external.

This debate confirms that even positivists such as Hart recognize the need for "morality" in law, provided that it functions internally, not as an external source as in natural law theory.

E. Synthesis: Neutral Form, Humanity Substance

From the above description, it can be formulated that positivists do not actually reject the essence of humanity (substance), but only reject the ontological status of human rights as a law that stands outside the state.

Thus:

1) What was rejected:

- The metaphysical source of law (God, the moral realm, pure ratio). o Claims that

human rights apply without state institutions.

- The idea of natural law that places justice as the legal basis of law.

2) What is accepted:

- Humanitarian values are formalized in positive law.
- recognition that morality can be the content of the law through legal mechanisms (constitution, laws, treaties).
- The moral obligation of the law to maintain human dignity is insofar as it is recognized in the normative structure of the state.

This is the ethical rationality of positivism: human rights are not rejected, but allowed to enter only through the door of legality.

In this way, positivism ensures that human rights are not just vague moral ideals, but concrete rules that can be formally enforced.

F. Philosophical Conclusion

With all of the above arguments, it can be clearly concluded that:

Positivists reject human rights only insofar as they are claimed as stateless laws, not as human values adopted by state law.

They reject the metaphysics of natural law, not its moral substance.

Paradoxically, precisely because positivism demands a formal form and a strong legality, human rights can obtain the safest position: not just a moral idea, but a juridically binding legal norm.

In other words, positivism does not negate humanity, but subjects it to institutional rationality.

And therein lies the strength as well as the danger of legal positivism : it can be a bulwark for human rights, but also a tool for power when it loses its moral control.

2. Integration of Human Rights in a Positivist State through Contractual Rationality and Modern Legal Mechanisms

A. The Rationality of Human Rights Integration in a Positivist State

The big question that arises in modern legal theory is how a state that adheres to positivism—which emphasizes formal legality, not morality—can integrate human rights into its legal system. In principle, legal positivism rejects the inevitable relationship between law and justice. H.L.A. Hart emphatically stated that the existence of law is one thing, while its moral value is another. However, this view does not mean that positivism is anti-human values. The rejection of Hart and the positivists is more methodological: they refuse to make morality a condition of the enactment of law, rather than deny morality itself.

With this logic, the path of human rights integration in a positivist state is not carried out by rejecting positivism, but by using its own mechanism—namely the mechanism of formal recognition through the constitution, legislation, and legal institutions. Positivism does not close values, but demands that they be legitimized procedurally. Therefore, the integration of human rights in the positive legal system can be understood as a form of moral conversion into legality: human values that were previously moral must be made into law through a formal process of ratification.

In this view, the role of social and political theory is important, because the moral legitimacy of a value—including human rights—can only be accepted by the legal system if it is recognized by society and law-making institutions. This is where the relevance of John Locke's thought emerges as a moral and political basis for explaining why the protection of natural rights should be institutionalized in positive law.

B. Integration Through John Locke's Social Contract

John Locke in *Two Treatises of Government* affirms that human beings are born with natural rights—the right to life, liberty, and property. However, in the state of nature, these

rights are vulnerable to being violated because there is no authority that guarantees their certainty. To protect these rights, people agree to form a state through a social contract, giving up some of their freedom in order for the state to maintain the remaining natural rights. Thus, the existence of the state does not remove natural rights, but rather becomes a means to guarantee them.

Locke's logic of the social contract provides a moral justification for the integration of human rights in a positive legal system. If the primary goal of the state is to protect human natural rights, then the state is obliged to turn those rights into part of positive law in order to have coercive power. A state that fails to protect human rights substantively can be considered a violation of the social contract and lose its political legitimacy. In other words, the legitimacy of the modern state is determined not only by legitimate power, but also by the extent to which its positive laws protect human dignity.

This concept is evident in the history of modern constitutionalism. Locke's ideas became the main inspiration for the Declaration of Independence of the United States in 1776 and the Declaration des Droits de l'Homme et du Citoyen France in 1789. Both declarations succeeded in turning moral principles into legal norms. The rights to liberty, equality, and property are no longer metaphysical rights beyond the reach of law, but rather part of the text of the constitution and positive law. It is in this context that Locke shows that the integration of human rights is not the antithesis of legality, but a prerequisite for the political legitimacy of law itself.

C. Integration Through Constitutional and Legislative Mechanisms

Once the philosophical foundations are formed, the next stage is the formal mechanism of integration of human rights in the positive legal system. In a country that adheres to positivism, new norms are considered valid only when they are created through recognized legal procedures. Hart calls it the rule of recognition—the social rule that determines the legitimate sources of law in a society. Thus, in order to make human rights law, the state must include them in one of the recognized sources: the constitution, the law, or the international treaty.

The Constitution is the most fundamental path. When human rights are regulated in the constitution, it acquires the status of the highest norm that binds the entire legal system. In this framework, human rights are not external values, but rather part of the highest normative structure that constitutes positive legal validity. In many modern countries—such as Germany, South Africa, and Indonesia—constitutional human rights arrangements have become the juridical basis for the protection of human dignity. This shows that positivism can accommodate human rights to the extent that they are legitimately institutionalized.

However, formal integration in the constitution alone is not enough. It must be followed by implementing legislation that regulates the procedure for enforcing these rights. Human rights laws, regulations on freedom of opinion, procedural laws that guarantee due process of law, and complaints and victim protection mechanisms are all concrete forms of translating human values into positive law. This legislative process is also proof that the positivist system is able to internalize moral values without abandoning the principle of legality.

D. Integration Through Positivist Legal Theory: Hart, Kelsen, and Dworkin

H.L.A. Hart and Hans Kelsen, two of the leading figures of 20th-century legal positivism, provide the methodological foundation for the process of human rights integration. Hart in *The Concept of Law* argues that social change can change the rule of recognition—what society and legal officials consider to be legitimate law. This means that when society broadly recognizes human rights as a principle that must be protected, the legal system can adjust by including human rights as a source of law. In Hart's view, this is entirely valid because the validity of the law is determined by the social facts of acceptance and recognition, not by its

metaphysical origins.

Kelsen explains a similar process through the Grundnorm concept. For Kelsen, every legal system rests on a hypothetical basic norm, which gives validity to all norms under it. When a country changes its constitution to include human rights, the Grundnorm changes: the basic norms that were once based on sovereignty alone are now based on respect for human dignity. This transformation shows that the legal system can evolve without abandoning positivism. Precisely within the framework of Kelsenian, the change is a legitimate normative process, not a deviation.

Ronald Dworkin then expanded this horizon with his view that law consists not only of rules, but also of principles. In *Law's Empire*, Dworkin said that human rights are moral principles that have normative power in the process of interpreting law. These rights serve as "trumps" against the interests of the majority, which must be considered by judges in every decision. Thus, although Dworkin is often categorized as a post-positivist, his views still provide a methodological justification for the positivist state to integrate human rights through the practice of legal interpretation.

E. Integration Through International Mechanisms and Human Rights Enforcement Institutions

In addition to through the constitution and national legislation, the integration of human rights in a positivist country can be strengthened through the binding of international law. The ratification of instruments such as the Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights (1966) was an important step that bridged universal moral values with the national legal system. In the monistic system, international treaties are directly applicable as domestic law; whereas in a dualistic system, the state must ratify the treaty through national law. Both systems depart from the same principle: that formal recognition is the key to legal validity.

In addition, the integration of human rights must also be realized through the establishment of independent institutions such as the National Human Rights Commission (NHRI), the Ombudsman, and special human rights judicial institutions. These institutions function as supervisors and implementers of human values in the positive legal system. With the authority to investigate, prosecute, and assess human rights violations, these institutions ensure that the protection of rights is not only a slogan, but a manifestation in the practice of law and state administration.

Strengthening the constitutional judiciary and judicial review mechanism is also an important pillar. Through this institution, positive laws that are contrary to human rights can be overturned, and legal interpretations can be directed to the protection of human dignity. This is how positivist law renews itself internally without having to step outside the framework of formalism. Lon L. Fuller calls this process the internal morality of law—the ability of the legal system to improve itself in order to maintain procedural rationality and justice.

CONCLUSION

Thus, the integration of human rights in a country that adheres to positivism is not a contradiction, but a logical evolution of positivism itself. Positivism demands legal certainty and formal legality; Human rights demand justice and respect for human dignity. The two can meet through Locke's contractual rationality, Kelsen's normative theory, Hart's theory of confession, and Fuller's internal morality. The result is a legal system that is both formally valid and substantive moral—a synthesis that transforms law from a mere instrument of power into a rational manifestation of a dignified humanity.

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