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Regilme, S.S.; Feijoo, K.V.; Romaniuk, S.; Marton, P.

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Right to Human Dignity



Salvador Santino Fulo Regilme, Jr. and
Karla Valeria Feijoo

History and International Studies, Institute for
History, Leiden University, Leiden, The
Netherlands

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human individual is morally expected to respect and to protect the sanctity and value of their fellow human beings. The concept of dignity forms the foundational basis of the modern international human rights regime that traces its roots to the Universal Declaration of Human Rights in 1948 (Regilme 2018). While the right to dignity is often traced to Western Enlightenment ideas that catapulted reason as the basis for authority and legitimacy, the concept of dignity has contested historical roots and can be found as well in various philosophical and cultural traditions beyond Western cultures.

Definition

The concept of right to human dignity refers to the proposition that all human beings possess an inherent and inalienable value and deserve utmost respect and protection from all forms of institutionalized and individual acts of exploitation (Barak 2015; Debes 2017; Düwell et al. 2014; Forsythe 2007; Kateb 2014; Sangiovanni 2017).

Introduction

The right to dignity implies the elevation of human beings as a distinctive group of social species, as implicated by the virtue of their rationality, ethical predisposition, and propensity to form a political community. The right to dignity also invokes the corollary obligation that each

Philosophical and Political History of Human Dignity

The concept of human dignity is found in various cultures around the globe and has evolved throughout history and been widely discussed in different strands of humanistic, social scientific, and legal scholarship. The philosophical and political origins of human dignity date back to Greek and Roman stoics (Misztal 2013). However, notions of dignity are also found in many cultures around the world and in the theological texts of religions including Christianity, Judaism, and Islam (May 2006). In Roman times, the concept of *dignitas hominis* referred to “status” – meaning that honor and respect were accorded to an individual that was worthy of it because of their status, which meant primarily positions of public

office (McCrudden 2008, pp. 656–657). Thus, invoking dignity was a way to differentiate and create a sense of hierarchy and stratificatory differentiation within society.

Concurrently, within Roman thought, a non-hierarchical meaning of dignity arose. Cicero referred to the *dignitas* of human beings for the virtue of being humans and having an inherent capability for rational consciousness which differentiated humans from animals. In this manner, all humans were equal irrespective of their “status” (McCrudden, p. 657). Dignity, as conceptualized by Cicero, was adopted by the humanists in an effort to reconcile dogmatic theology and classical thought. Hugo Grotius, *On the Law of War and Peace*, suggested the incorporation of the idea of dignity into practical use through international laws of war. Grotius referred to dignity as the reason for why the remains of enemies were to be treated with respect (McCrudden 2008). In 1486, in his famous oration *On the Dignity of Man*, Pico della Mirandola contended that humans have dignity because they can reason, thus divorcing the notion of dignity from status and hierarchy (Misztal 2013).

Building on this notion, during the Enlightenment, in *Metaphysics of Morals*, Immanuel Kant closely associated dignity with autonomy and an individual’s ability to make rational choices to shape one’s future. Furthermore, such notion of dignity required that humans be treated as ends and not as a means (Sect38, 462). This meant that individuals should not be treated as tools or as objects for the will of others. Kant’s insights constituted perhaps the most cited nonreligious conception of dignity and the idea that the ability to make choices is a part of dignity persists today. During the eighteenth century, there was a shift in the use of dignity from the philosophical circles to the political spheres of social life.

The concept was adopted by advocates of Republicanism during eighteenth and nineteenth centuries, when it was for the first time espoused by a movement. The most notable example is the French Revolution which gave dignity a communitarian focus (McCrudden 2008). Towards the end of the nineteenth century, dignity became central to Catholic social doctrine and also embraced a

communitarian conception (McCrudden 2008). French philosopher, Jacques Maritain, promoted the notion of dignity, which should constitute a part of the political life and human relations and thus essential for the common good (McCrudden 2008). Most notably Maritain was influential during the drafting of the United Nations Charter and the Universal Declaration of Human Rights. After the nineteenth century, dignity gained some traction especially in the advocacies of social movements such as the abolition of slavery, women’s rights and more recently reproductive rights, disability rights and biomedical research ethics among others.

The role of dignity has resurfaced in the scholarship as it becomes more prevalent in various legal texts and political decision-making. Notably dignity has shifted from a communitarian approach towards that of the individual. Dignity has served as the basis for human rights and developed as an instrument for the creation of new political, social, and economic rights for individuals. An important aspect is that these rights are not from the State or other forms of authority. Rather, such rights give the individual a form of protection from the state and, in some instances, the rights of the individual override those of the State (Schachter 1983). More recently, the renowned German philosopher Jürgen Habermas (2010) argued that human rights are “morally charged” (p. 466) because they are based on dignity, meaning dignity serves as the ethical justification for human rights.

However, other scholars question the universality of human dignity. Christopher McCrudden (2008) argues that the extent to which dignity is related to rights differs from region to region with some taking a “comprehensive moral world view” (675). Dutch scholar Bas de Gaay Fortman (2014) argues that enforcement depends on states which may not be compatible with the existing legal order. Rhoda Howard and Jack Donnelly ((1986)) suggest four different regimes which are based on varying notions of dignity that deny individuals human rights: the minimal state, communitarian society, traditional society, and communism. Howard and Donnelly (1986) argue that the notion of dignity that underlies international human rights requires a liberal regime where

equality and autonomy are valued. Thomas Pogge (2014), meanwhile, maintains that there are three dimensions, which may prevent a life of full dignity: (1) subordination due to a “greatly inferior social standing”; (2) inability to care of oneself physically; and (3) lack of self-control. Pogge argues that to say every human has dignity means that they have the “potential” for dignity and that the realization of this “potential” is of great moral importance (2014, p. 478). This means all human rights need to be secured and fulfilled. Sigrid Graumann (2014), meanwhile, hypothesizes that human dignity requires the protection of negative and positive rights and access to social services. Promoting a universal and inclusive notion of dignity ensures that individuals with disabilities are able to live a dignified life. Many scholars agree in the increasing role of human dignity in international law and politics.

Another group of scholars advances the proposition that a high level of generality in the conceptualization of dignity is necessary for its “universal” acceptance. Christopher McCrudden (2008) asserts that human dignity serves as a linguistic symbol that represents different viewpoints, allowing for a consensus. Particularly, dignity takes on a more pluralistic and culturally relative approach, as a universal concept that can take on various meanings in different contexts (McCrudden 2008). This is supported by the increasing use of dignity in constitutions, charters, and other legal documents (Habermas 2010). Habermas (2010) states that dignity is a conceptual hinge between morality and law and therefore will continue to be included in international legal and constitutional documents. Dignity continues to play an important role as it forms as the theoretical basis for human rights in the philosophical, political, and legal spheres of thought (McCrudden 2008). The growing visibility of dignity in human rights legislation, bioethics, and public discourse indicates that it will continue to play an important role.

Human Dignity and the Universal Declaration of Human Rights

Signed on December 10, 1948, the most well-known reference to dignity in the post-World War II global governance regime is in the Universal Declaration of Human Rights (UDHR). The UDHR was signed by 48 countries from around the world demonstrating the international acceptance of human dignity and human rights. Dignity was used as the unifying concept which enabled this “universal” consensus. The UDHR declares the universality of dignity and the need to protect human rights on a global scale. In this document, the dignity of humans is inherent, inalienable, and universal. Protecting dignity means safeguarding political, economic, social, and cultural rights (Liebenberg 2005). The UDHR preamble opens with, “Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.” Furthermore, the Preamble of the UDHR declares that “Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom.” (United Nations 1948) The use of dignity in a more elaborate manner can be found throughout the document, particularly in Article 1 of the UDHR which states: “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.” The use of dignity is also used in Articles 22 and 23 in relation to socio-economic and workers’ rights. When the UDHR was drafted by John Humphrey, it did not include dignity, it was later added by his co-author René Cassin. The decision was controversial, but it was ultimately made in order to articulate the foundation upon which human rights existed (McCrudden 2008). The concept of human dignity has become so central to the UN notion of human rights that consequently it has been included in conventions on the rights of children, migrant workers,

protection from enforced disappearances, and the rights of disabled persons (McCrudden 2008). Furthermore, the manner in which dignity is used in the UDHR has been adopted beyond the UN, especially in national, regional, and international legal agreements and documents.

Conclusion

Human dignity is most notably mentioned in the Universal Declaration of Human Rights, which gave way to a movement that advocates the inclusion of the concept in other charters, declarations, and national constitutions in Europe, the United States (US), and beyond. In its modern use, dignity has been inextricably linked with human rights most especially in circles where socialist, Catholic, or both influences are present (McCrudden 2008). In Europe, the inclusion of dignity in documents has taken place in reaction to traumatic events. Dignity served as the foundation for the approach used to draft the Geneva Convention in 1929, which was in response to the deficiencies in the treatment of prisoners of war witnessed in World War I. It more precisely states that respect for dignity was binding even in the absence of agreements (McCrudden 2008). The German Constitutions enacted between 1946 and 1949, after World War II, were in response to the mass atrocities that occurred under the Nazis (Habermas 2010). More recently, human dignity was applied in an absolute form, as the most basic of rights, in the German Constitution (Basic Law of the Federal Republic of Germany), created after the fall of the Berlin Wall (McCrudden 2008). Beyond Europe, the German constitution shares the aspiration for the protection of human dignity as invoked in the South African Constitution and Israel's Basic Law (McCrudden 2008). In Europe during the 1970s, a wave of democratic constitutions made use of dignity after the fall of dictatorships including Greece, Spain, and Portugal (McCrudden 2008). Dignity is also present in regional agreements such as the Helsinki Accords and in EU policies. As such dignity has had a prominent role in post-World War II policy-making and jurisprudence in Europe.

While in the USA, the use of dignity has been underdeveloped and episodic in comparison to Europe, it has nevertheless been influenced by international and transnational scholarship. While the US Constitution does not explicitly refer to dignity, there are cognate concepts that have been further developed in the US Supreme Court's constitutional jurisprudence (Jackson 2004). Human dignity also served as the inspiration for the Bill of Rights, but its role in the Court's jurisprudence has been sporadic. Each US State has its own constitution and Montana's is unique in that it explicitly protects human dignity. When it comes to the application of dignity in courts, US courts tend to look towards federal and other state courts to reach their own decision (Jackson 2004). The Commonwealth of Puerto Rico's Constitution, which treats dignity in a manner evocative of the German Constitution, was inspired by the UDHR and the US Constitution (Jackson 2004). In this manner, Puerto Rico's use of dignity is in line with the post-World War II constitution-making developments seen in Europe and around the world.

Beyond Europe and the USA, human dignity has been adopted in a variety of political and legal contexts. In the South African Bill of Rights, the affirmation of socio-economic rights constitutes the protection of dignity, whereby access to social services is a necessary condition for the realization of dignity. In Australia, India, and Latin American countries, dignity has been used for the recognition of cultures such as the rights of Aboriginal and Native peoples (Misztal 2013). Beyond those Countries, dignity is used in various Human Rights instruments on a regional level such as the Inter-America, Arab, African, and some European documents such as The American Convention on Human Rights and European Convention on Human Rights (McCrudden 2008). Internationally, dignity has been invoked in the preambles of the ILO Conventions, International Conventions regarding Discrimination against Women (1979) and the Prevention against Torture (1984). It is also in the International Covenant on Economic, Social, and Cultural Rights, demonstrating how dignity is now used on a wide variety of types of human rights (Schachter 1983). Its

inclusion as a normative concept in all these texts indicates that dignity will continue to play an important role as the basis for other rights and jurisprudence developments locally, regionally, and internationally.

Cross-References

- [Civil Liberties](#)
- [Empowerment](#)
- [Freedom](#)
- [Human Rights and Privilege](#)
- [Right to Economic Dignity](#)

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