

Cambridge University Press

978-0-521-19578-2 - The Cambridge Handbook of Human Dignity: Interdisciplinary Perspectives

Edited by Marcus Düwell, Jens Braarvig, Roger Brownsword and Dietmar Mieth

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The Cambridge Handbook of Human Dignity

This introduction to human dignity explores the history of the notion from antiquity to the nineteenth century, and the way in which dignity is conceptualized in non-Western contexts. Building on this, it addresses a range of systematic conceptualizations, considers the theoretical and legal conditions for human dignity as a useful notion and analyzes a number of philosophical and conceptual approaches to dignity. Finally, the book introduces current debates, paying particular attention to legal implementation, human rights, justice and conflicts, medicine and bioethics, and provides an explicit systematic framework for discussing human dignity. Adopting a wide range of perspectives and taking into account numerous cultures and contexts, this handbook is a valuable resource for students, scholars and professionals working in philosophy, law, history and theology.

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Interdisciplinary Perspectives

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JENS BRAARVIG

ROGER BROWNSWORD

and

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NAOMI VAN STEENBERGEN

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Foreword

Professor Alain Plantey, the well-known French jurist, who represented the French Academy of Moral and Political Sciences in the International Union of Academies (IUA), proposed a project for joint research by the member-academies on the subject of human rights. After long discussion, the Bureau of the IUA modified the subject-matter of the investigation by converting it to a project to investigate human dignity, so as to give the opportunity to non-European academies to participate. The General Assembly of the IUA accepted the project in this form.

The project is unique amongst the projects patronized by the IUA for several reasons. The investigation is not being carried out by two or more interested academies according to a previously fixed timetable, but rather is open to all member academies. At the start of the project, with the financial aid of the European Science Foundation (ESF), three meetings of experts were organized by the Bureau of the IUA in cooperation with three member academies, as follows:

- ‘Human Dignity: Religious and Historical Aspects’, Jerusalem, 17–18 December 2006, organized by G. Stroumsa
- ‘Human Dignity: Sociological, Ethical and Bioethical Perspectives’, Rabat, 26–27 June 2007, organized by M. Düwell, G. Stroumsa and I. Khalil
- ‘Human Dignity: Juridical and Philosophical Perspectives’, Barcelona, 16–17 July 2007, organized by S. Giner, G. Stroumsa and M. Düwell.

A closing session was held on 1–4 October 2007 in Vadstena (Sweden), where, based on the experience gained during the previous sessions, the necessary conclusions were drawn by the participants. The organizers were M. Düwell and G. Stroumsa.

As a result of these preparatory meetings, the General Assembly of the IUA approved guidelines for further research, according to which the most important first step was to collect a volume of studies which would sum up the outcome of the conferences held so far, on the one hand, and, by delineating the problem in general, could serve as starting-point for future work, on the other.

The General Assembly entrusted the Norwegian Academy of Sciences with the organization and supervision of future activities in this field, and with the composition of the present volume.

The IUA hopes that this volume will prompt further research in order to enrich the outcome of these investigations, and will also prompt politicians to implement the results achieved by scholars.

MIKLÓS MARÓTH
President of the International Union of Academies, 2007–10

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Why a handbook on human dignity?

Why human dignity?

Human Dignity was established in 1948 as the foundational concept of the Universal Declaration of Human Rights (UDHR, reproduced in Appendix 2 to this volume). The Preamble to the Declaration opens with the following statement: ‘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 . . .’. In Article 1, we read: ‘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.’ And, in 1966, the United Nations declared: ‘These [human] rights derive from the inherent dignity of the human person.’¹ During preparation of the Declaration (1946–8),² there were discussions about whether there was a need for such a foundational concept and, if so, which notion that should be. Choosing human dignity immediately after the Second World War was a statement against the Shoah, against totalitarianism, and against the atrocities of the war. However, by choosing human dignity, a concept was selected that has an impressive history in various traditions. The Stoic philosopher Cicero saw it as a central requirement of a virtuous life that one should behave in a way that is appropriate to the dignity of a human being; and, famously, for Immanuel Kant, the dignity of the human person is at the centre of his moral philosophy. During the drafting process of the UDHR, the philosopher Peng Chuan Chang claimed that the Confucian notion of humanity (*ren*) would have the same meaning as human dignity in the Western tradition; the South African President, Jan Smuts, could make sense of this notion within the Calvinist-reformed tradition; and the philosopher Jacques Maritain, who acted as the representative of the Vatican, held a similar view in relation to the Thomist tradition.

This apparent consensus raises the question whether, upon further reflection, all those traditions would really coincide in a common understanding of human

¹ United Nations, International Covenant on Economic, Social and Cultural Rights, 1966; International Covenant on Civil and Political Rights, 1966.

² For the history of the Declaration, see Morsink 1999, for a discussion about the role in particular of human dignity, see Tiedemann 2012, 20–8.

dignity. Nevertheless, one could reasonably assume that this concept represents a basic concept of the modern world: at least since the eighteenth century, we have seen the human being as the central point of justification of basic political and social institutions. For Hugo Grotius, the distinctive features of the human being served as the justification for a particular structure of the international order; and the American and French Revolutions referred explicitly to the idea of the rights of man. However, the extent to which a commitment to human rights implies a concept of human dignity is moot; and, what is more, it is contested how this modern idea of human dignity relates to earlier understandings in the Middle Ages and the Renaissance as well as the relationship of these debates to traditions outside the cultural contexts of Europe and North America. These are all significant topics for discussion.

After 1948, in the course of the further establishment of the UDHR, human dignity became a widely accepted concept, but its reception remained ambivalent. On the one hand, it has often been perceived as vague and open, hardly explained and conceptually unclear, perhaps even completely empty; the suspicion was that everybody could ‘sign up’ to human dignity because, with this agreement, one would not commit oneself to any specific conviction or position. Some scholars even assumed that this was precisely the reason for the success of this notion. Moreover, some feared that, insofar as human dignity is assumed in various legal contexts to override the interests of an individual human, its adoption could endanger the commitment to human rights. If human dignity is a concept with an under-determined content but which could trump human rights, it could be a kind of Trojan horse in relation to the human rights regime.

On the other hand, human dignity was seen by scholars from various traditions as the foundational and basic concept of the entire human rights regime from which the whole set of human rights should be derived. Indeed, in the legal context, human dignity was implemented in various constitutions and became a key part of the national legal order in, for example Germany and Israel. From this perspective, the relevance of the concept would be to offer more than a conceptual understanding of why human beings are so important that we should ascribe to them inalienable rights. Such a legal foundation would be seen as a practical necessity because concrete human rights are constantly undergoing changes in the process of political and legal interpretation.

Beside the importance of human dignity as a foundational concept, in the first decades after the war, there were many debates about the implementation and content of the human rights regime but human dignity was not a focal point. Rather, human dignity was a notion in the background of the UDHR. However, in recent years, there has been a remarkable change in this position. The most significant debates about human dignity have been in bioethics. For example, there have been discussions about which beings – human embryos, comatose patients, and perhaps (at least some) animals – have dignity (and what this entails); appeals to ‘dying with dignity’ have been prominent in debates about the permissibility of assisted suicide and euthanasia; and the value of

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human dignity is a central focus for debates about reproductive cloning, genetic modification, and human enhancement (for example, Beyleveld and Brownsword 2001; Kass 2002; President's Council on Bioethics 2008). At the same time, we can see a growing *philosophical* interest in human rights in general, focusing on the appropriate interpretation of human rights (for example, Gewirth 1996; Griffin 2008; Beitz 2009) as well as on the question of whether or not human rights are the appropriate normative framework for matters of international politics in a globalized and multicultural world (for example, Mutua 2002). In short, discussions around human dignity have been galvanized in the last few years, these debates being found in legal (McCrudden 2008; Capps 2009) as well as in philosophical contexts (Gaita 2000; Benhabib 2011; Kateb 2011; Waldron 2012). Sometimes, we even find quite a polemical dimension in the debate when human dignity is suggested to be the intellectual property of a specific conservative heritage or when sceptics find harsh words about the vagueness of the concept.

The concept of dignity may, all in all, seem paradoxical, in the way that value or dignity is something that has to do with *differences* between people. But, as with the UDHR, and in a broader sense with humanism in its various formulations in different traditions, and in particular after the French Revolution, one has tried to create an idea of a shared and equal dignity for all humans, as an *inherent* quality. This militates against many historical views where human dignity is for the few, and, indeed, an egalitarian ideal is not present in many historical traditions, European, or others. Dignity is something to be earned, or maybe, more often, something that certain persons are born with, as in the upper classes of a society. Clearly, human dignity in the modern and UDHR sense, as *inherent*, is rather a concept that does not, and probably cannot, exist in a society without laws to protect the *rights* that flow from it rather than the principle itself. Thus, we may find lofty ideas of an egalitarian view of dignity in ideologies, in places and situations where still human rights are not protected. The idea of inherent dignity is very closely connected with the *individual*; however, the implementation of laws on the rights, traditions and moral rules, may well also be connected with *collective* entities, and *group dignity* may well be detrimental to the dignity of the *individual*. In this way, the discussion on human rights is closely linked to the principle of dignity, and one may argue that the equal rights of all is the *practical outcome* of the dignity concept. In the UDHR, inherent dignity is indeed the presupposition on which the rights are built, and the reason why the rights should be legally protected.

A handbook on human dignity?

It is not only timely to have an intense debate about human dignity, it is surely a matter of intellectual honesty to try to attain a more comprehensive understanding of this concept. Given that human dignity forms the basis of many legal frameworks (international, regional and national), that it is deeply interwoven

with various moral and religious traditions, and that it functions as a reference point for a number of contemporary social and political debates, it should be carefully investigated before we judge whether it is a useful, meaningful, vague or problematic concept. Whether one wants to embrace human dignity enthusiastically or criticize its political and legal dominance, in any case one should understand the concept, its normative status, its history and the principles of its applicability. That requires, however, intense interdisciplinary studies from various points of view, particularly legal, philosophical and historical.

We have chosen a structure that combines a *pragmatic attitude* with an attempt to cover a broad range of perspectives. Our attitude is pragmatic insofar as the handbook has no encyclopaedic ambition; since discussions about human dignity are related to the cosmological, moral, legal and religious position of the human being in general, a comprehensive discussion of human dignity would cover more or less the intellectual, moral and legal history of humankind. Accordingly, instead of making a futile attempt at completeness, we have tried to highlight a variety of perspectives that we think are central for an understanding of the history and the contemporary understanding of the concept. For the whole handbook, we have chosen to take the understanding of human dignity in the UDHR as a *point of departure*. That does not mean that we want to claim that in all approaches to human dignity this human-rights-related understanding is presupposed, which would be obviously wrong. However, we asked our authors to relate all discussions to the concept of human dignity as it was developed within the contexts of human rights. This seemed to us to be the natural focal point since it is precisely the foundational role of human dignity within the human rights framework that is the reason for its presence in contemporary debates.

In the introductory part of the handbook, there are two chapters: the first focuses on the *legal* discussions, starting with the history of the UDHR and the many references to human dignity in international and regional instruments; it then discusses the place of human dignity in a comparative legal perspective; and, finally, it considers the arguments for and against a legal role for human dignity. The second chapter introduces the *conceptual* aspects of human dignity (as we find it in various historical and contemporary approaches) and the various *philosophical* attempts to reconstruct and justify its meanings. This conceptual and philosophical analysis is intended to provide the reader with some important background to relate the various historical perspectives and contemporary debates to each other. We believe that this quite open approach is preferable to an attempt at synthesizing the whole book, which would be necessarily an arbitrary and one-sided endeavour.

Part I offers an attempt to reconstruct the *history* and the *Begriffsgeschichte* of human dignity with regard to some especially prominent parts of its history. A first subsection focuses on European history, from antiquity to the socialistic tradition of the nineteenth century. A particular chapter is dedicated to the role of human dignity in the Jewish tradition. This selection, which is not

guided by the ambition of completeness, is not arbitrary – the traditions that are selected are those that need to be considered in order fully to understand the contemporary discourse. We discuss the Kantian and phenomenological tradition in the second Part and not in this historical Part. The second subsection presents concepts of human dignity beyond the scope of the European tradition. We discuss the Islamic tradition in this context, even though we are aware that Islam is also a part of European history. The selection focuses on those traditions that have some kind of systematic and written elaboration. We are aware that this attempt to engage in a debate in the global richness of historical and cultural perspectives is just a first step to broaden the scope of the debate in a direction that would do justice to the universal ambition of the human dignity concept. It will be a task of future research to bring other perspectives into the debate (for example, some oral traditions) and to investigate in greater detail the differences and similarities between the various perspectives.

Part II offers an overview of the most important *philosophical* approaches to the reconstruction and justification of the meaning of human dignity. To focus so strongly on the philosophical discussion is based on the assumption that human dignity has a central role in the moral and philosophical self-interpretation of human beings, and that the central place of the concept in legal regulations is derived from this fact. This overview includes various philosophical approaches that draw on more analytical and continental traditions than are currently present in the debate. It also includes some debates that are not clearly related to one traditional philosophical school (such as discussions about ‘collective dignity’ or ‘posthumanism’) as well as a discussion about sociological approaches to human dignity.

Part III discusses the role of human dignity in various legal traditions, and then introduces a variety of contemporary societal, moral and political debates in which human dignity is contested, ranging from issues in bioethics, to questions of just war and gender equality. We selected some discussions where the concept of human dignity already plays some role, but of course there would be further relevant contexts. The ambition of this Part is, in the first place, to show the range of contexts in which human dignity plays a role and to discuss what that role is or could be. The ambition of this Part will be fulfilled if the reader develops an understanding of the conceptual possibilities of human dignity to gain a sense of its normative orientation.

The future of human dignity

We see this handbook as an opening, rather than a concluding, publication for an understanding of the history, the meaning and the normative function of human dignity. Much remains to be debated: it will be the task of future research to write a comprehensive history of human dignity, and it will need more philosophical and legal scholarship to understand in which ways human dignity can fulfil its foundational role within the context of human rights. It will, in particular, be important to engage more strongly in a dialogue between

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the existing philosophical approaches and philological and historical research about various intellectual traditions from the whole globe. From our point of view, an international debate about human dignity, its historical and cultural roots, and its philosophical justification, has only just begun. All attempts to conclude these debates would be inappropriate given the lively discussions that have been a feature of recent years. We hope that this handbook can provide the necessary tools for future debate and discussion so that a more comprehensive understanding of human dignity is possible.

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