

Dignity and the Form of Human Existence

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Abstract: This paper aims at showing that human dignity is neither something that exists separately from human being, nor a property, or an abstract idea, but as a relation between a human being and their own knowledge of the form of human existence, which can be expressed as the form ‘I.’ In other words, human dignity means that a person acknowledges that they owe the formed aspect of her existence to the form ‘I.’ Because human beings cannot actualise the form ‘I’ in a self-sufficient manner, the violation of the dignity of one person derogates also the dignity of the person or the persons who are causing it. This means that if I debase someone, I debase also myself because I impair my own knowledge of the form ‘I.’ In other words, my dignity relation to the form ‘I’ obliges me to acknowledge and to respect the dignity relation of any other human being. The problems arising from the cognitivist concept of dignity disappear if one takes into account that this concept only says that in order for dignity to exist there must exist at least one full-fledged cognizing person. As long as one human being in the world is able to have direct knowledge of the form ‘I’ every other human is entitled to dignity, even if the rest of humanity were not in position to realise this fact. Human dignity cannot thus be determined as an individual human right, but as a duty of every person against herself and any other human being.

Keywords: dignity; dignity commandment; human existence; form; I; person

Human dignity shall be inviolable¹ declares the first article of the Basic Law of the Federal Republic of Germany states, adding: “To respect and protect shall be the duty of all state authority.” I will call both statements together the ‘Dignity Commandment.’ This commandment is not a special feature of the German Federal Con-

¹*Basic Law of the Federal Republic of Germany*, Art. 1.

stitution, it can be found in several variations in the constitution of every modern ‘ethical’ constitutional state.² Indeed, it can be said that the Dignity Commandment defines a state as an *ethical constitutional state*, i.e., as a state that does not only provide a mere legal frame for deliberation and decision-making on a daily political basis, but a state that is above all committed to the highest end of human life, which the Antiquity called ‘eudaemonia.’³

Both sentences of the Dignity Commandment are quite clear as imperatives. Are they, however, true? And if yes, why? Do they describe a fact? Do they describe a real object and the consequences of its existence? If so, why is this object of such a profound value so that the protection of its value makes up the uppermost obligation for the state? Or, does the Dignity Commandment commit the State and the citizens to an end? Is this end within reach? If not, why should we nonetheless try to achieve it? And, last but not least, how do we know that this end exists?

One thing is certain about the Dignity Commandment: The meaning of the second sentence depends on the meaning of the first. For, if the expression ‘human dignity’ would not refer to anything then it would be nonsensical to respect and to protect it. However, if ‘human dignity’ has a meaning, in which way does human dignity exist and in which way can it be violated, so that the authors of the constitution were urged to declare, ‘it is inviolable?’ And, even if human dignity needs the protection of such a power like the state, why should the state respect and protect it in such an absolute manner?

One idea would be to think of human dignity as something that exists separately from us, perhaps as a being that accompanies us during our lifetime – like Jiminy Cricket who accompa-

² Cf. Graham Walker, *Moral Foundations of Constitutional Thought: Current Problems, Augustinian Prospects* (Princeton University Press, 2014); Paul Raffield, “Bodies of Law: The Divine Architect, Common Law, and Ancient Constitution,” *International Journal for the Semiotics of Law* 13 (2000): 333-356; Gerard E. Lynch, “Constitutional Law as Moral Philosophy,” *Columbia Law Review* 84, no. 2 (1984): 537-557.

³ Cf. Aristotle, *Nicomachean Ethics* (Indianapolis: Hackett, 2014), 1095a15-22.

nies Pinocchio on his adventures acting as his moral counsellor. However, since we have no evidence that this could be the case, this idea seems quite implausible. It is more plausible to think of human dignity as a property of human beings of a certain quality that has to be specified, and of a certain quantitative magnitude, which – because of the quality of human dignity – must not be altered. If this concept of human dignity is correct the Basic Law resp. its authors owe an explanation of this obligation. There are many human properties – bodyweight, health condition, freedom or material wealth the quantity of other properties of humans – that can be altered by external or internal causes, e.g. actions of the persons themselves, actions of other persons, or actions of the State and of other institutions. What is then wrong with altering the dignity status of a person? Even if one agrees that a change into the negative is not good, it cannot be ruled out that a positive change, e.g. an enhancement or augmentation, is both possible and desirable.⁴

Obviously, the authors of the German constitution were convinced that human dignity is a property that *cannot* be altered quantitatively. This can be the case because human dignity is either immutable in an absolute sense, or because it is a property that has only two qualitative statuses: it can be possessed by a person or not.⁵ If this were the case, then violating human dignity would mean destroying it. The fact that the State is committed to protecting human dignity seems to suggest that the latter is the case, and that the privation of this property is of such a grave consequence for human life that the authors of the German constitution saw the necessity to commit the State to its unconditional protection.

In this light human dignity appears to be a strange good, since it is on the one hand a fundamental property of any hu-

⁴ John Harris, “Moral Enhancement and Freedom,” *Bioethics* 25 (2011): 102-111; Thomas Douglas, “Moral Enhancement,” *Journal of Applied Philosophy* 25 (2008): 228-245.

⁵ Immanuel Kant, *Grundlegung zur Metaphysik der Sitten*, in *Immanuel Kant, Werke in 12 Bänden*, Vol. VII, ed. Wilhelm Weischedel (Frankfurt am Mein: Suhrkamp, 2000), BA 78.

man being,⁶ but on the other hand it is constituted in such a way that makes it very difficult for a single human being to keep this property unaltered without the aid of the State. At this point it could be objected that the Dignity Commandment is solely addressed to the State because only the State could – in the course of the fulfilment of its duties – violate the dignity of its citizens or of other human beings that fall into the realm of its power.⁷ This is so since the State can restrict every property of an individual it can affect⁸ up to the point that this property ceases to exist, as for example in the case of the loss of individual freedom or even the loss of life following a legal sentence.⁹ However, the Dignity Commandment commits the State to do this in such a way that the dignity of the persons affected by such a restriction is not violated. Thus, human dignity, by being explicitly exempted from the right of the State to restrict it, seems not to be a human property, albeit being something that is somehow connected intrinsically with human life, and something that is in a certain way vulnerable. Otherwise, the Dignity Commandment would be meaningless, inapplicable, or superfluous.

⁶ Ibid.

⁷ Cf. the discussion of the so called ‘bridge passage’ in John Stuart Mill, *On Liberty* (Kitchener: Batoche Books, 2001), chapter 5.

⁸ Obviously, there are properties of humans that cannot be affected by state action, for example the fact that they are subject to the law of gravity, or that they belong to the species *homo sapiens* or that they breath oxygen, etc.

⁹ For example, in article 2, par. 2 of the Basic Law of the Federal Republic of Germany is stated: ‘Every person has the right to life and physical integrity. Freedom of the person is inviolable. These rights may be interfered with only pursuant to a law.’ This means that the Basic Law does not grant the unconditional inviolability even to human life. This article is deployed to justify the legitimacy of so-called ‘shoot-to-kill’ regulations in German police laws and also the legitimacy of downing by force captured airplanes that are used as weapons. The absolute right of the State to restrict any personal right makes also understandable that capital punishment has to be abolished by special constitutional or legal norms, in the case of Germany by article 102 of the Basic Law.

What other conceptions of human dignity remain possible if it can be ruled out that it is a substance – an independently existing thing, the existence of which is due to its own nature (and not to due to the conception of someone else – or a property of humans? According to a certain tradition in metaphysics that goes back to Aristotle, there are two modes of existence: Existence as a reality and existence as a mere truth.¹⁰ Existence as reality means that the truth of statements regarding a given thing can be demonstrated either directly by pointing to the entity in question, be it a substance or a property. However, if something exists as a mere truth, then statements about this entity can be verified only by reference to other true statements, that is indirectly. Apart from substances and properties, other real existences are relations between substances or between properties, or between substances and properties. To the entities that exist in the mode of mere truth belong privations and privative states,¹¹ for example illnesses, or the absence of some properties, or the defective state of something that exists in the mode of reality, and also abstract conceptual constructions – numbers and geometrical figures are often regarded as prominent examples of abstract conceptual constructions.¹²

So, one possibility would be to regard dignity as an abstract conceptual construction that is constituted within social practice, i.e., as a mere truth, another to regard it as a real existing relation – to regard human dignity as privation is obviously nonsense. A definition of dignity as a conceptual construction seems to evoke more problems than it could resolve, since we had then to justify the universal validity of the Dignity Commandment. If, on the other hand, we waived the claim of universality then the occurrence of the Dignity Commandment in fundamental documents of humanity, as for example in the Charter of the United Nation would be rendered completely inapprehensible.¹³

¹⁰ Cf. Aristotle, *Metaphysics* (Indianapolis: Hackett, 2016), 993b30-31.

¹¹ This is the idea that underlies the second part of Parmenides' poem 'On Nature.'

¹² Cf. Hartree Field, *Science without Numbers* (Oxford: Oxford University Press, 2016); Peter Janich, *Enklids Erbe* (München: C. H. Beck, 1989).

¹³ Preamble of the Charter of the United Nations: 'We the Peoples of the

If human dignity then cannot be determined as a substance, as a human property, or as abstract conceptual construct and if nonetheless the expression ‘human dignity’ describes something existing then the only mode of existence of human dignity seems to be that of a relation. Since it is attributed to humans, i.e., substances, it must be a relation between humans and something else. Our task is then to find and characterize this relation and the hitherto unknown relatum. This relation is apparently of a fundamental importance for human existence, but it is constituted in such a way that it cannot be recognised and maintained easily by everyone. According to this theory the authors of the constitution have realised the existence and the vulnerability of this relation and also the restricted capability of human individuals to recognize and to preserve it and have thus committed the State to the obligation to protect every human individual from the consequences of such a failure. The first sentence of the Dignity Commandment, “Human dignity is inviolable,” recognises and describes the essence of this fundamental relation and the second charges the State with the duty (and the right) to preserve it.

The question we now are facing is about the nature of the second relatum of the dignity relation (the first is the human being) and about the nature of the relation itself. We have further to ask why this relation is of such a fundamental importance and why does its constitution render its misconception possible? Did the authors of the constitution belong to some privileged ones who realised the existence of this relation? Finally, why are the citizens in position to fulfil this task when acting on behalf of the State if they – as mere humans – are not able to realise what the issue is? Since it is obvious that as part of the constitution the Dignity Commandment is not addressed to a distinct social stratum of the state, but to every single participant in civic life, what has to be preserved must be recognisable by everyone. If,

United Nations determined [...] to reaffirm faith in fundamental human rights, in the *dignity and worth* of the human person, in the equal rights of men and women and of nations large and small” (italics by the author).

however, this is the case then everyone has to know in advance what the issue is, i.e. everyone has to know how to recognise cases of debasement. This means that every human with normal cognitive capabilities has to have certain knowledge both of the relation called 'human dignity' as well as of the relatum, to which she is linked by this relation. This means also that the violation of dignity as a conscious act cannot be the result of not knowing what this relation is, but is rather the consequence of its misconception.

On the background of the above-mentioned considerations the following reading of the Dignity Commandment is plausible: Because human beings often misconceive the dignity relation the State is obliged to provide a life framework that minimises the possibility of such a misconception. In order to achieve this, it is not necessary that the State has a privileged access to the proper conception of the dignity relation and to the second relatum, nor it is necessary that the State must employ people who are in possession of some special cognitive capabilities regarding dignity. The only necessary thing is that the State – including its servants and its citizens – endeavours to preserve and to promote the existence of the dignity relation by issuing laws and other legal norms that protect human dignity as best as possible.¹⁴

The results we have achieved so far are that every human being is one part of a two partite relation called dignity, that the existence of this relation is fundamental for the good life of every single human being, and that every human has a knowledge of this relation and of its second relatum, a knowledge, however, that can be distorted or can be erroneous.

These clarifications do not provide any information about the essence of the second part of the dignity relation as well as about the essence of the relation itself. One possibility is that the second relatum is a single natural existence – a substance – that can be perceived either directly by means of our sense organs or indirectly via its effects on our lives. There are two arguments against this assumption: First, if this were the case

¹⁴ I think that this is the idea underlying any rationalist theory of the state, be it explicitly contractualist or Spinozist/Hegelian.

then it wouldn't be necessary to build up and to preserve a relation to this existence, but we should preserve and protect this existence directly. Since a substance as an independent natural existence is more valuable than any of its particular properties or its particular relations to other substances it would be sufficient to become aware of the existence of this one paramountly important substance in order to become aware of our relation to it and to act accordingly – even if we weren't able to identify completely its essence. Second, if dignity consisted in a relation to a substance then the preservation of this substance would make up the entire meaning of our lives. The case is, however, that there is no single substance in the world that makes up the entire meaning of our lives, despite the fact that there are a lot of substances that are necessary and indispensable for our lives, for example air, water, food and a great number of other material and immaterial things. All these substances are indispensable for our lives rather as means for achieving the goal of our lives, which according to the Dignity Commandment includes the respect and the protection of human dignity. If there existed actually a substance to which we establish the dignity relation then this substance would be at the same instance means and aim of our lives. In this case we wouldn't need any other item of the world in order to realise our lives. Our experience with natural things tells us, however, that this is not true. Hence the second relatum of the dignity relation cannot be a substance.

Could this relatum then be something extramundane? In this case we had to explain how we could have any experience of such an entity since we are not able to perceive anything that is not part of the world – and if we cannot have any experience of something we cannot establish any relation to it. So if there is something extramundane that is necessary for establishing the dignity relation, this 'something' has to reveal itself to us – by its own impetus. In such a case the dignity relation would be literally inviolable, since it were not to our disposition to change it. Obviously, we can chance our attitude to this relation, but not the relation itself – in analogy to the fact that

a person can affect her attitude to her relation that she is the child of given father (i.e., she can like or dislike it, be proud or ashamed of it etc.), but she cannot affect the relation of being-the-child-of this-father. because she was put in this relation by her father. Thus, if dignity was a relation enforced upon us by an extramundane entity the Dignity Commandment would be redundant or reduced to the mere coercive imperative to take an attitude of awe towards this revealed extramundane entity. Such an imperative contradicts, however, our understanding of dignity, which entails the idea of being free to take any attitude we choose towards anyone or anything. This is the reason why the Dignity Commandment itself is not a penal law. There are penal laws that are derived from it, but the Dignity Commandment itself does not exert any positive coercion to do or to refrain from doing something. It only allows the citizens to resist any decision of the State that urges them to violate the dignity of any other human being.

If the second relatum of the dignity relation cannot be determined neither as a worldly nor as an extramundane entity, then the only remaining alternative is apparently to locate it in us. Does this mean that we are two-component existences? Under the assumption that body and soul exist as two separate substances, the complex of which forms a human being, could the dignity relation be the cement that keeps both together?

Leaving the 'technical' metaphysical problems of the body-soul approach apart, regarding the dignity relation as the cement between body and soul does not explain why is it addressed also to the State and cannot also explain how the State could fulfil any duty derived from it. Let us suppose that the dignity relation is a sort of collective label for every activity necessary for keeping upright the coherence between body and soul: eating, drinking, taking care of oneself, associating with others, keeping oneself healthy, etc. The question then is, how many and which of these activities are necessary for the coherence of body and soul? What is the limit that demarcates a violation of human dignity? What shall the State do in order to prevent a

dignity violation? Is the duty of the State to urge the citizens to perform some of the dignity preserving activities and to oversee their proper accomplishment? How shall one proceed with human beings who are for any reason not able to perform any of them? Shall they be characterized as undignified and granted lesser rights or excluded from civic life?¹⁵ Shall they be excluded completely from life? Is at the end necessary to consider the costs and the benefits of such a procedure in order to determine the ‘socially optimal’ number of ‘dignified’ persons?

It seems that these considerations lead us to a path that departs gravely from the spirit of the Dignity Commandment. For, the Commandment does not distinguish between normal and disabled, healthy and ill, autonomous and dependent human beings. It bestows dignity on every human being and commits the State to guarantee also the dignity of humans who are not in position even to be aware of their dignity let alone to defend it (such humans being among others: comatose and mentally retarded persons, but also human embryos in every stage of their development).¹⁶

The proponent of the body-soul theory could object that there is still a possibility to regard dignity as the cement that keeps body and soul together because it is not a label for any sort of life sustaining activities, but a relation *sui generis* that is

¹⁵ Cf. Peter Singer, *Practical Ethics* (Cambridge: Cambridge University Press, 2011).

¹⁶ Regarding the moral treatment of embryos, it is so that since the State has the right to constrict any factual human property – including life – it can also determine the conditions, under which an embryo is not allowed maturing to a human being. This means that the impunity or even the explicit permission of abortion is in the discretion of the State and does not violate the Dignity Commandment or article 2 of the Basic Law, although the State is not obliged to permit explicitly abortion. However, the Dignity Commandment forbids the ‘deviation’ of the normal maturing process of an embryo, in order to integrate parts of it in another human organism as a therapeutic measure. The State is thus obliged to prohibit the use of human embryonic stem cells for therapeutic aims.

necessary *and* sufficient for the coherence of body and soul. Its impairment would result in the destruction of human existence since it would mean cutting the ties between body and soul. If this were the case, however, then it would be difficult to understand both why the above-mentioned life activities (eating, associating etc.) are necessary for a dignified human life and why the State should see to it that humans living under its protection should be provided with sufficient food, good education, adequate salaries, a functioning health care system and psychological support. The fact that human dignity is dependent on the various activities that preserve and sustain human life without being reducible to any set of such activities refutes both the assumption that the second relatum of the dignity relation is an immaterial component of human existence besides its material body and that dignity is the relation ensuring the coherence between body and soul.

Our considerations have so far led to the conclusion that human dignity is not a human property, but a relation between a human and something else. This second relatum, on the other hand, cannot be a worldly existence, or an extramundane entity or an immaterial component that is attached to a material human body to form a human existence. If there is no such relatum then there is no relation – is human dignity just a sweet dream, an illusion?

A last possibility remains: Namely, human dignity can be defined as the relation of a human being to an existing universal that renders possible its individual existence as human being. Such existing universals are traditionally called forms. According to the theory of forms, every singular thing that belongs to a kind or species exists as a composite of its form and matter, the former being its differentiating and the latter the its individuating principle.¹⁷ Forms of natural things, i.e. things that belong to natural kinds, realise themselves through their interac-

¹⁷ Cf. Aristotle, *Physics* (Cambridge, MA: Harvard University Press, 1986); David Oderberg, *Real Essentialism* (New York and London: Routledge, 2009).

tion with matter as single natural things with various degrees of complexity, as animals, plants, stuffs (chemical, biological and geological substances) and constellations of physical objects. Human beings are also realisations of a natural form.

The particularity of the human form is that its realisations, i.e. the individual human beings, have a more or less clear and *direct* knowledge both of the fact that they realise this form and of the content of it in contrast to every other living thing. 'Direct knowledge' means that this knowledge is not mediated by any sense organ, but that it results directly from human intellectual activity. Thus, this direct knowledge can be unclear or erroneous as any cognition, but the error does not result from the malfunction of a given sense organ (as for example errors in colour perception caused by the malfunction of the eye). The mechanism of acquiring this knowledge is of no concern for our considerations. It is sufficient to accept that every mentally developed human being, every person, knows that the human form bestows certain properties on her, properties that she has in common with other persons, the most important of which is self-consciousness. The possession of self-consciousness is displayed by the fact that humans command the use of the personal pronoun 'I' in a way that transcends mere spatiotemporal indexicality. The direct knowledge of the human form enables a person to realise that she and all other human beings are actualisations of this form. So, every person can understand for example that between 'I beat you' and 'you are hurt by me' there is an inferential link. This understanding of the pronoun 'I' entails also the knowledge that being an 'I,' an individual person, is the fundamental content of the human form. This means that the essential part of the human form is to be an *I*, a *person*. The other properties of human beings are modifying factors that give self-conscious beings on earth the concrete life of humans, despite the fact that they may be essential for this mode of existence. The human form itself is part of a more comprehensive form, in the same way that the form of, say, a Labrador dog is part of the more comprehensive form 'dog.'

Humans like Labrador dogs are *modes* of a species, the latter of the species *canis lupus* and the former of the species *I*. Thus the essential forming factor of human existence is not the human form, but the form 'I.' In other words, the members of the terrestrial species *homo sapiens* form a subgroup of the species *I*. Traditionally this truth is expressed by defining man as *animal rationale*, the specific difference 'rationale' being regarded as the necessary and sufficient differentiating moment of humans from the rest of all other species of living things.

The direct knowledge of the form 'I' entails the knowledge that every human being is in principle constituted as an 'I.' This means that insofar I have realised that I am an actualisation of the form 'I' I have realised that other individual existences displaying properties and behaviour similar to mine are also actualisations of the form 'I' and have the same constitution, including the same basic needs, like me. From this knowledge and the premise that no one acts against her insight, it follows that the actualisation of the form 'I' can be achieved only by in a non self-sufficient manner by mutual help, because since everyone knows what the fundamental needs of human existence are, one is obliged to assist everyone having these needs to fulfil them. The actualisation of the form 'I' can only succeed embedded in a social environment, so that any impairment of sociality affects directly the fulfilment of individual human life as actualisation of the form 'I.'

On this background human dignity consists in the realisation that one has a direct knowledge of the form 'I,' i.e., human dignity is the relation of a human being to their own knowledge of the form 'I.' In other words, human dignity means that a person acknowledges that they owe the formed aspect of their existence to the form 'I.'¹⁸ This relation is indeed inviolable in the sense of the Dignity Commandment because any violation

¹⁸ A human being owes her factual existence not only to the form 'I' but also to the fact that she is the result of the parental act of procreation. Traditionally the former is called the *formal* and of the latter the *effective cause* of a formed existence.

of it impairs directly a person's knowledge of the form 'I' and because the impaired knowledge of the form 'I' is, the imperfect is the conduct of individual human life as actualisation of this form. Furthermore, because human beings cannot actualise the form 'I' in a self-sufficient manner, the violation of the dignity of one person derogates also the dignity of the person or the persons who are causing it. This means that if I debase someone, I debase also myself because I impair my own knowledge of the form 'I.' In other words, my dignity relation to the form 'I' obliges me to acknowledge and to respect the dignity relation of any other human being.

Against the cognitivist concept of dignity presented here could be objected that it is inapplicable to every human being who is not able to have any knowledge of the form 'I,' e.g., comatose persons, embryos and so forth, so that this concept misses the idea inherent to the Dignity Commandment. To avoid this 'flaw,' one could be inclined to determine dignity as belonging to the content of the form 'I,' bypassing thus the mediation by knowledge. This, so the proponent of this position, would explain both the universality of human dignity and its normative power independently of the ability of a human being to have a knowledge of it.

If dignity belonged indeed to the content of the form 'I' its actualisation would be subject to the gradation of perfection, i.e. its factual value could vary from human to human like any other factual value of any human essential property. The form 'I' contains a great number of potential properties that in many human beings are either not actualised at all or to a various degree of perfection. Human dignity, however, is not actualised as a factual property of human beings or as a part of such a factual property, being thus not a subject of gradation whatsoever. So, we must assume that either human dignity is a content of the form 'I' that is not actualised at all – which seems to be at least strange –, or that dignity cannot belong to the content of the form 'I.'

The apparent problems arising from the cognitivist concept

of dignity disappear if one takes into account that this concept only says that in order for dignity to exist there must exist at least one full-fledged cognizing person. As long as one human being in the world is able to have direct knowledge of the form 'I every other human is entitled to dignity, even if the rest of humanity were not in position to realise this fact. Human dignity cannot thus be determined as an individual human right, but as a *duty* of every person against herself and any other human being.

Since an individual person is not always in position to recognise if her actions are in accordance with the fulfilment of this duty – even under the assumption that she has the good will to fulfil it – there is the necessity to organise human life in such a way that some persons are charged with the duty to help any other human being to conduct a dignified life. This organisation of human life is the State. The Dignity Commandment obliges the State resp. the persons that are acting on its behalf, to take care that the conduct of a person's life does not affect – intentionally or unintentionally – the dignity of other human beings. A State that is not subject to the Dignity Commandment is thus only a vehicle for the realisation of arbitrarily prevailing political aims. This was the bitter and blood-soaked lesson of the failure of the mere formal European democracies in the first half of the 20th century.

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