

THE USEFULNESS OF THE LEGAL CONCEPT OF HUMAN DIGNITY IN THE HUMAN RIGHTS DISCOURSE: LITERATURE REVIEW

Borja Fernández Burgueño

Universidad Rey Juan Carlos

borjabur@gmail.com

Abstract:

This paper will evaluate the convenience of using the legal concept of human dignity in the human rights discourse and its effectiveness to address injustice in a twenty-first century democratic society. This article will argue that the difficulty of defining human dignity does not diminish its merits and allows it to be both solid and adaptable to new challenges. Then, this paper will argue that human dignity is a powerful concept due to its capacity to bring change and modernise society and will conclude that there is a strong relationship between time, human dignity, human rights and democracy.

Key Words:

Dignity, Human rights, Democracy.

Resumen:

Este artículo evaluará la conveniencia de utilizar el concepto legal de la dignidad humana en el discurso de los derechos humanos y su efectividad para luchar contra la injusticia en una sociedad democrática del siglo XXI. Se expondrá que la dificultad de definirla no menoscababa su valor y le permite ser un concepto sólido y adaptable a nuevos desafíos. Se argumentará que la dignidad humana es un concepto poderoso debido a su capacidad para cambiar y modernizar la sociedad y se concluirá que existe un fuerte vínculo entre el tiempo, la dignidad humana, los derechos humanos y la democracia.

Palabras clave:

Dignidad, derechos humanos, democracia.

Enviado: 29/03/2016

Aceptado: 22/04/2016

INTRODUCTION

World War II (1939-1945) was the deadliest military conflict in history. Seventy million people died, including six million Jews exterminated in concentration camps and more than forty million civilians killed. Europe and the world witnessed the most egregious violations of human rights and crimes against humanity. In 1948, dignity was included in the Universal Declaration of Human Rights¹ as bulwark against the major threats to humanity, recognising the intrinsic worth of everyone merely by being a human and bringing hope back to humanity.

Since then, the concept of human dignity has been incorporated in a wide range of human rights treaties, including the International Convention on the Elimination of all Forms of Racial Discrimination (1965), the International Covenant on Economic, Social and Cultural Rights (1966), the International Covenant on Civil and Political Rights (1966), the Convention on the Elimination of All Forms of Discrimination against Women (1979), the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984), the Convention on the Rights of the Child (1989), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990), the Charter of Fundamental Rights of the European Union (2000), and the Convention on the Rights of Persons with Disabilities (2006), among others. Furthermore, the concept of human dignity has also been added to many constitutions (see e.g. in article 10 of the Spanish Constitution, article 41 of the Italian Constitution or article 1 of the German Basic Law) and other domestic legal texts. Additionally, courts are increasingly referring to human dignity concerns to rationalise their rulings. This vast variety of differing approaches to human dignity have rendered it one of the most difficult legal terms to define.

Human dignity has been characterised with an endless list of definitions, to which academics have significantly contributed to enlarge. Some of them describe dignity as: a constitutional principle (Barroso, 2012: 354; O'Mahony, 2012: 556); the heart and soul of the human race (Dupré and Jones, 2013: 173); a useless concept (Macklin, 2003: 1419); a useful capacity for upholding one's principles (Killmister, 2010: 160); a stupid, relative, fungible and harmful concept (Pinker, 2008); a loose cannon (Brownsword et al., 1998: 662); an amorphous idea (Rao, 2008: 203); an empty shell (McCrudden, 2008: 698); a two edge sword (Feldman, 1999: 682); a vacuous concept (Bagaric, 2006: 257); the moral source of human rights (Habermas, 2010); a freestanding human right (Shaoping, 2009); a dependent human right part of a triangulate interpretation of fundamental rights (Baer, 2009); a counterproductive concept in the context of human rights (Schroeder, 2012); an exclusive human characteristic (Marín Casán, 2007); a spiritual human value (Mora, 2000: 257); an inviolable right (Carmi, 2011: 9); the pillar of democracy (Häberle, 2009); a threat (Rao, 2008: 255); a honour-related concept (Bayefsky, 2013: 809); a rank (Waldron, 2012) and an idea linked to concept of status (Waldron, 2013: 8).

¹ Although we can trace back dignity as a legal concept to the 1789 French Revolution, the 1948 UDHR and the 1949 German Basic Law are the key milestones in our current understanding of it.

Taking into account the number of different approaches to human dignity in both the legal realm and in the academic discussion, this paper will consider whether the concept of human dignity is still relevant and useful on the legal discourse on human rights or whether it has become just a sweet-sounding legal placeholder empty of substantial meaning.

This paper will first argue that the difficulty of defining it has allowed the concept of human dignity to be adaptable to changing ideas and new challenges. Then, it will evaluate the merits of dignity as a legal term, finding that dignity is one of the most powerful and needed concepts for twenty-first century human rights due to its capacity to bring change and modernise society. Finally, this paper will analyse the connections between human dignity and the three generations of human rights, finding that there is a strong relationship between time, human dignity, human rights and democracy. This article will conclude that human dignity is not only the most needed concept in the twenty-first century human rights law, but it is, and it will be, the most critical and fundamental legal principle for all democratic societies.

DEFINING HUMAN DIGNITY IN LEGAL TERMS: ADDRESSING THE COMPLEXITY OF HUMAN RIGHTS

Some authors have attempted –and failed– to find a universally accepted legal definition of human dignity. McCrudden (2008: 723), after a detailed analysis of the international judicial interpretation of dignity, claimed that no one jurisdiction has a coherent judicial interpreted conception of dignity across the range of rights, and no clear conception of dignity emerges transnationally. He found that, beyond a minimum core, there is no consensus whatsoever on the concept of dignity. Rao (2013: 35-36) goes one step further affirming that there is no singular universal conception of dignity and, should the different interpretations were irreconcilable, states must choose the concept of dignity that respect the most their traditional constitutional values, regardless of its interpretation elsewhere. Notwithstanding the fact that the definition of dignity is explicitly enshrined in some domestic legal texts, this paper agrees with McCrudden and Rao that there is no universally accepted definition of it. However, as it will be argued later on this paper, this fact does not diminish its merit.

Other academics have tried to describe dignity without limiting their research to finding a universal understanding thereof. Macklin (2003: 1419) asserts that dignity is a useless concept because it is no more than the respect for autonomy and a slogan that can be used to support contradictory claims. Schroeder (2008: 231-254) answers Macklin affirming that there are four concepts of dignity –Kantian dignity, aristocracy dignity, comportment dignity and meritorious dignity–² and each one reflects a different conflicting perspective. However, as Killmister (2010: 164) points out, Macklin

² Kantian dignity: “Dignity is an inviolable property of all human beings, which gives the possessor the right never to be treated simply as a means, but always at the same time as an end”. Aristocracy dignity: “Dignity is the outwardly displayed quality of a human being who acts in accordance with her superior rank and position”. Comportment dignity: “Dignity is the outwardly displayed quality of a human being who acts in accordance with society’s expectations

fails to connect those four concepts. Barroso (2012: 392) attempted to reconcile the complexity of dignity by claiming that there are three core elements: intrinsic value, autonomy and community value. He affirms that these three elements can explain the most complex human rights issues. However, his approach, rather than being an objective analysis, answers to his personal liberal agenda: pro-abortion, pro-same-sex marriage and pro-assisted suicide (Barroso, 380-391). Paradoxically, Barroso (2012: 332) gave merits to this critique by stating that “human dignity as a legal concept frequently functions merely as a mirror onto which each person projects his or her own moral values”. Deleuze and Guattari (1994: 6) claimed that “concepts are nothing without their creator’s signature” and therefore one could argue that dignity should be part of the philosophical discussions and not of the legal discourse. Otherwise, goes this argument, states would use dignity arguments to impose their moral views upon all the population. Pinker (2008: 1) claims that “dignity imposes a Catholic agenda on a secular society”, upholding that the concept of dignity is too full of religious connotations and moral values. In order to address this issue, this paper, agreeing with Dupré (2013: 113-122), claims that the legal definition of dignity, rather than being a source of definitive answers, should be a tool to openly discuss complex human rights issues. Therefore, following Dupré’s reasoning (2012: 265; 2013: 113-122), this paper argues that the difficulty of defining the concept of dignity, instead of undermining its legal applicability, gives judges, law-makers and academics a unique tool that allows them to enrich and redefine democracy.

Some scholars have been more explicit in relating (or dissociating) human rights and human dignity. Schroeder (2012: 328) argues that human rights can be understood better without the concept of human dignity because of three reasons: “the justification paradox” –the concept of dignity does not explain the source of human rights–; “the Kantian cul-de-sac” (Schroeder, 2012: 329) –human rights will lose their universal validity if dignity is limited to those individuals with capacity to reason–; and “the hazard by association” (Schroeder, 2012: 331) –human dignity is more controversial than the concept of human rights–. However, this paper states that human rights and human dignity cannot be dissociated because human dignity, notwithstanding its controversy, gives coherence to the, otherwise unconnected, list of human rights. Habermas (2010: 464), gave merit to this argument stating that “human dignity is the key to the logical interconnection between the different categories of human rights”. Unlike Habermas, Gan (2009: 370-384) claims that human dignity is one of the human rights, rather than being the foundation of them. However, this paper argues that Gan underestimates the complexity of both human rights and human dignity by reducing the latter to a freestanding right. Baer (2009), on the other hand, affirms that dignity has to be interpreted under the light of equality and liberty. Those three rights, she claims, have distinct meanings, nevertheless they have to be interpreted relating to one another. Following Baer and Gan reasoning, since human dignity is just a right and not a principle, a serious breach of it will leave an individual without dignity. However, agreeing with Carmi (2011: 10), this paper disagrees with Baer and Gan and believes that dignity is inherent, inalienable and inviolable and even the most serious violations of

of well-mannered demeanor and bearing”. Meritorious dignity: “Dignity is a virtue, which subsumes the four cardinal virtues and one’s sense of self-worth”.

human rights cannot alter one's dignity. Therefore, this paper argues that the recognition of the dignity of an individual presupposes the effective respect of his human rights and not vice versa. Sandkühler (2009: 15) and Castán (2007: 3) claim that human dignity is what makes human beings humans and consequently dignity should be respected and protected against anything that de-humanises society.

Supporting Sandkühler and Marín Castán's reasoning that dignity stands up against the de-humanisation of society, the next section will focus on the power of the concept of dignity to bring change in our society after acts or periods that de-humanise it, reinforcing the statement that the difficulties of defining dignity in legal terms have not diminished its merit and asserting that human dignity is the most needed concept for human rights law in the twenty-first century.

HUMAN DIGNITY AS A TOOL TO BRING CHANGE: THE MERITS OF HUMAN DIGNITY

This section will argue that dignity is a powerful tool to bring change, focusing on the merits of human dignity as an instrument to break with the past in America and in Europe.³

In the US, dignity is a relatively new concept and its merits have been questioned by many American authors. Neier (2013: 60) affirms that the American liberty-based approach to fundamental rights and the European dignity-centered one can be complementary. However, he states that when they come into conflict, states must choose the most favourable approach. Rao (2008: 201-256) goes even further by asserting that the modern European conception of human dignity will undermine the freedom-based American constitutional protection of individual rights. Rao and Neier are cautious at accepting the concept of dignity due to its novelty in the American legal system. However, they both suggest that dignity is a powerful legal notion that can effectively change the human rights protection in the US. Although Neier and Rao point out that the concept human dignity does not appear in the American Constitution, Barroso (2012: 337) claims that "all constitutions bear values and ideas that inspire and underline their provisions without express textual inclusion". Therefore, this paper dismisses the "formal argument" against the inclusion of dignity in the legal discourse in the US and affirms that human dignity can modernise and enhance the protection of human rights in America. Currently, human rights are often disregarded in the US in order to achieve "greater" state purposes.⁴ Hence, dignity is arguably the most needed concept for twenty-first century human rights law in America due to its capacity to further the effective protection of human rights.

In Europe, dignity has played, and still plays in the twenty-first century, a more explicit role in human rights law and has effectively reshaped European democracies. In 1789, the concept of dignity was used in France to break with the past and to give

³ Dignity has been used in other parts of the world to bring change. See Art 10 South African Interim Constitution (1993) in which dignity is used to break with the apartheid.

⁴ E.g.: Guantanamo, surveillance programs, racial discrimination or access to healthcare.

rise to a better future.⁵ After the atrocities and crimes against humanity in WWII, dignity was again the most needed concept for human rights law to give back hope to humanity (Dupré, 2012). Dupré (2012: 265) argues that “it is only after the advent of non-democratic regimes, notably the Nazi Germany, that dignity became a fully constitutional concept”. In Europe, the most significant example was the constitutional inclusion of dignity in the 1949 German Basic Law. In other European countries, dignity has been used to break with undemocratic regimes. In Hungary, unlike Germany in which the concept of dignity relates the individual with the state, dignity stands up against the state-power and adopts a more individualistic approach in order to move from its communist background towards a new democracy (Dupré, 2003: 105-127). In the twentieth century, dignity played an important role at giving hope to Europe (Dupré, 2012). Hope was materialised in the creation of democracies in which the protection of human rights is a core objective. In the twenty-first century, dignity is still the most needed concept for human rights law to ensure that society keeps moving forward.

Nowadays, in Europe, there is a thick definition of human dignity enshrined by Title I of the European Charter⁶ and supported by the complex and effective system of protection of human rights, shaped by domestic constitutional courts, the ECHR and the ECJ. Dupré (2012: 265) explains that the role of the ECtHR⁷ as an effective instrument to break with the past can be clearly perceived in article 15.2 ECHR (which establishes that states cannot derogate from the prohibition of unlawful killing,⁸ torture,⁹ slavery,¹⁰ and punishment without law¹¹) and in the doctrine of the *living instrument* (which allows the ECHR to increase the level of protection of human rights by interpreting the convention under present-day conditions¹²). The ECJ used the concept of dignity for the first time in 2004 in the *Omega* case¹³. In this case, the ECJ held that “games with the object of firing on human targets”¹⁴ were in breach of human dignity. The *Omega* case is a clear example of how dignity was used in Germany to break with its WWII background. Since the entrance into force of the European Charter in 2009, the ECJ has now a complex definition of human dignity and it will be interesting to

⁵ 1789 French Declaration of the Rights of Man.

⁶ Article 1 (see also articles 2, 3, 4 and 5) Charter of Fundamental Rights of the European Union (2009).

⁷ Note that there is no express reference to dignity in the actual wording of the ECHR.

⁸ Art 2 European Convention on Human Rights (ECHR) See also: Protocol No. 6 and Protocol No. 13.

⁹ Art 3 ECHR.

¹⁰ Art 4.1 ECHR.

¹¹ Art 7 ECHR.

¹² See e.g. in *Tyrer v UK* (1978) 2 EHRR 1; *Selmouni v France* (1999) 29 EHRR 403.

¹³ *Omega Spielhallen-und Automatenaustellungs GmbH v Oberbürgermeisterin der Bundesstadt Bonn* ECJ [2004] C-36/02.

¹⁴ *Omega* case at 9614.

see the outcomes of the judicial dialogue between the ECJ and ECHR on dignity. At a domestic level, the interpretation of dignity varies between jurisdictions. For instance, in Germany dignity is an absolute right (Barroso, 2012: 354), in France dignity is not a supreme principle and it can be violated (Barroso, 2012: 354) and in Spain dignity is an invulnerable individual spiritual value (Mora, 2012: 257). Nonetheless, the different approaches to human dignity and the difficulty of defining it in legal terms, far from diminishing its merit, have enriched its content and stimulated legal discussion and judicial dialogue by giving a common ground on which to discuss complex human rights issues.

This section has suggested that democracy, human rights and dignity are inter-related. The next section will further the analysis of this relationship, finding that the difficulties of defining dignity in legal terms are partly due to the role of a fourth element: time.

TIME, DEMOCRACY, DIGNITY AND HUMAN RIGHTS: BRINGING HUMAN RIGHTS TOGETHER

Dignity and democracy are strongly related and the role of dignity is fundamental at ensuring the protection of human rights. Häberle (2009), Sandkühler (2009: 14) and Dupré (2011; 2012a: 265; Dupré and Yeh, 2013: 45), supporting the former statement, argue that there is a direct connection between dignity, democracy and human rights. Sandkühler (2009: 14) adds to this statement that dignity is an intrinsic condition of democracy and not a concept that can be used only when convenient. Häberle (2009) supports Sandkühler's reasoning and affirms that dignity is not only a condition of democracy, but that democracy is the "organisational consequence of human dignity". Dupré (Dupré and Jones, 2013: 175-176), following Häberle's argument, affirms that democracies should place the individual at the heart of their activities. Habermas (2010: 464) explains the actual materialisation of the concept of dignity in a democracy stating that "human dignity is designed to be spelled out in concrete terms through democratic legislation, to be specified from case to case in adjudication and to be enforced in case of violations". Finally, Dupré (2012a: 273), focusing on the use of the concept of dignity in case law,¹⁵ claims that "when dignity is deployed in the

¹⁵ E.g. *R (Limbuela) v. Secretary of State for the Home Department*, *R (Tesema) v Same and R (Adam) v Same* [2005] UKHIL 66 and *Ghaidan v Mendoza* [2004] UKHIL 22, [2004] 2 AC 557 cited in C Dupré, 'Dignity, Democracy and Civilisation' [2012] 33 *Liverpool Law Review*; see also *Queen v East Sussex County Council* [2003] EWHC 167 CO/4843/2001, *Ghaidan v Godin-Mendoza (FC)* [2004] UKHL 30 and *R v Secretary of the State for home department* [2005] UKHL 66 cited in C Dupré, 'What does dignity_mean_in_a_legal_context?' (*The_Guardian_2011*) <<http://www.theguardian.com/commentisfree/libertycentral/2011/mar/24/dignity-uk-europe-human-rights>> accessed 18 March 2014.

(majority) reasoning, the applicants' claim is successful". Nonetheless, this paper disagrees with Dupré and affirms that dignity has also been rightly utilised when ruling against applicants' claims in order to protect society against acts that de-humanise it.¹⁶

By adding the concept of time to the dignity and democracy binomial, the three generations of human rights come together. Harbermas (2010) explains that human rights are indivisible and human dignity connects the different categories of human rights. By using the concept of dignity, Barroso (2012: 371) relates the first and second generation of human rights and states that there is an "existential minimum of well-being without which autonomy is a mere fiction". Baer (2009: 425), gives merit to Barroso's statement by saying that "poverty is a global threat not only to individuals but also to communities and societies". However, both academics fail to include the third generation of human rights in their arguments. Dupré (Dupré and Yeh, 2013), by introducing the concept of time in the discussion, successfully relates the three generations of human rights. She explains that dignity plays a fundamental role in democratic societies, not only at breaking with the past and providing an effective system of protection of human rights in the present, but also at constructing a better future (Dupré, 2012a). The construction of a better future, Dupré clarifies, is related with the concept of hope and only when the society has hope to build a better future through human dignity, the rights of the next generations can be protected. However, the complexity of the time-dimension of dignity has furthered the difficulty of defining it in legal terms. Nonetheless, it is only thanks to this time-dimension that the concept of human dignity is both solid and, at the same time, sensible to changes. Therefore, this paper asserts that the difficulties of defining it in legal terms have not diminished its merit.

CONCLUSION

Dignity, as Castán (2007: 3) affirms, is the fundamental value of human rights law and therefore it should always play a core role in human rights discussions. The time-related nature of the concept of dignity at the heart of human rights render it not only the most needed concept for twenty-first century human rights law, but also the most fundamental human rights principle regardless of the time framework.

This paper has reasoned that the different approaches to human dignity render the concept of human dignity flexible to new challenges. However, the development towards a better an effective system of protection of human rights is now facing new challenges. The EU's management of the economic crisis threatened the concept of dignity enshrined by the European Charter by prioritising economic necessities over individuals' needs (Dupré, 2014). Recently, the EU-Turkey Migrant Agreement¹⁷ for

¹⁶ See e.g. Omega case (Omega Spielhallen-und Automatenaustellungs GmbH v Oberbürgermeisterin der Bundesstadt Bonn ECJ [2004] C-36/02) and Dwarf-tossing case (Manuel Wackenheim v. France, Communication No 854/1999, U.N. Doc. CPR/C/75/D/854/1999 (2002)).

¹⁷ EU-Turkey statement, 18 March 2016. EU Press release 144/16. Accessed on 4th April 2016, EU International Summit, available online at http://www.consilium.europa.eu/press-releases-pdf/2016/3/40802210113_en_635939208600000000.pdf

sending refugees back to Turkey is challenging the universality of the concept of dignity. Furthermore, the actual effectiveness of the European Court of Human Rights at ensuring the protection of human rights in Europe is undermined by some 70,000 cases¹⁸ pending before the court.

To address the above-mentioned challenges, this paper argues that the concept of human dignity has to play a critical role in order to ensure a coherent, democratic and effective response which could help humanity to keep moving toward a higher standard of protection of human right by recognising the individual worth and dignity of everyone regardless of nationality, background and race concerns. Therefore, this paper concludes that, despite the difficulty to define it, dignity has played a central role at shaping democracies and furthering the protection of human rights.

LIST OF REFERENCES

- BAGARIC, M. and ALLEN, J. (2006). "The vacuous concept of dignity". *Journal of Human Rights*, 5, pp. 256-270.
- BARROSO, L. R. (2012). "Here, there and everywhere: human dignity in contemporary law and in the transnational discourse". *Boston College International & Comparative Law Rev*, 35 (2), pp. 331-393.
- BAYEFSKY, R. (2013). "Dignity, Honour and human rights: Kant's perspective". *Political Theory*, 41 (6), pp. 809-837.
- BROWNSWORD, R. and BEYLEVELD, D. (1998). "Human dignity, human rights and human genetics". *Modern Law Review*, 5, pp. 661-680.
- CARMI, A. (2011). "La Dignité Humaine et les Droits de l'Homme" in UNESCO (ed.), *Recueil de cas sur la Dignité Humaine et les Droits de l'Homme*. Paris: Organisation des Nations Unies pour l'Éducation, la Science et la Culture.
- DELEUZE, G. and GUATTARI, F. (1994). *What is Philosophy?* New York: Columbia University Press.
- DUPRÉ, C. (2003). "Instrumentalising the model" in C. Dupré (ed.), *Importing the law in post-communist transitions: the Hungarian Constitutional Court and the right to human dignity* Oxford: Hart Publishing.
- (2011). "What does dignity mean in a legal context?". Accessed the 18 March 2016 in *The Guardian*. Available online at <<http://www.theguardian.com/commentisfree/libertycentral/2011/mar/24/dignity-uk-europe-human-rights>>.
- (2012a). "Dignity, Democracy and Civilisation". *Liverpool Law Review*, 33(3), pp. 263-280.

¹⁸ Total number of pending applications: 69,900. European Court of Human Rights applications pending before a judicial formation 31/12/2014.

Available at http://www.echr.coe.int/Documents/Stats_pending_2014_ENG.pdf

- (2012b). “Hungary's fundamental law challenges the EU's democratic ideals”. Accessed the 19 March 2016 in *The Guardian*. Available online at <<http://www.theguardian.com/commentisfree/libertycentral/2012/mar/13/hungary-fundamental-law-eu>>.
- (2013). “Constructing the meaning of human dignity: four questions”. In MCCRUDDEN, C. (ed.) *Understanding Human Dignity*. Oxford: The British Academy by Oxford University Press.
- (2014). “Dignity”. In HERXEY, T., PEARS, S., KENNER, J., and WERD, A. (eds.). *A commentary on the EU Charter of Fundamental Rights*. Oxford: Hart Publishing.
- DUPRÉ, C. and JONES, J. (2013). “Introduction to the special issue on dignity” *Liverpool Law Rev*, 33, pp. 173-176.
- DUPRÉ, C. and YEH, J. (2013). “Constitutions and legitimacy over time” in TUSHNET, M., FLEINER, T., and SAUNDERS, C. (eds). *Routledge handbook of constitutional law* Oxford/New York: Routledge.
- FELDMAN, D. (1999). “Human dignity as a legal value, part 1”. *Public Law*, Winter, pp. 682-702.
- GAN, S. (2009). “Human dignity as a right” *Frontiers of Philosophy in China*, 4(3), pp. 370-384.
- HABERMAS, J. (2010). “The concept of human dignity and the realistic utopia of human rights”. *Metaphilosophy LLC*, 41, pp. 464-480.
- HÄBERLE, P. (2009). *Europäische Verfassungslehre* .6th ed. Baden: Baden Nomos.
- KILLMISTER, S. (2010). “Dignity not such a useless concept”. *J Med Ethics*, 36 (3), pp. 160-164.
- MACKLIN, R. (2003). “Dignity is a useless concept”. *BMJ*, 327, pp. 1419-1420.
- MARÍN CASTÁN, M. L. (2007). “La Dignidad Humana, los Derechos Humanos y los Derechos Constitucionales”. *Revista de Bioética y Derecho*, 9, pp. 1-8.
- MCCRUDDEN, C. (2008). “Human Dignity and judicial Interpretation of human Rights”. *European Journal of International Law*, 19(4), pp. 655-724.
- MORA, J. E. (2000). “La Dignidad de la persona Humana en la Jurisprudencia Constitucional Española”. *Cuadernos de Bioética*, 42, pp. 257-272.
- NEIER, A. (2013). “Between Dignity and Human Rights”. *Dissent - University of Pennsylvania Press*, 60 (2), pp. 60-65.
- O'MAHONY, C. (2012). “There is no such thing as a right to dignity”. *Int J Constitutional Law Oxford University Press and New York University School of Law*, 10, pp 551–574.
- PINKER, S. (2008), “The stupidity of dignity”. *The New Republic*. Accessed 20/03/2016. Available online at <https://newrepublic.com/article/64674/the-stupidity-dignity>

- RAO, N. (2013), "The Trouble with Dignity and Rights of Recognition". *Virginia Law Review Online George Mason Law & Economics Research Paper*, 99, pp. 29-38.
- (2008). "On the Use and Abuse of Dignity in Constitutional Law". *Columbia Journal of European law*, 14, pp. 201-256.
- SANDKÜHLER, H. J. (2009). "La Dignité Humaine et la Transformation des Droits Moraux en Droit Positif". In POULAIN, J., SANDKÜHLER, H. J., and TRIKI, F. (eds). *La dignité humaine Perspectives transculturelles*. Frankfurt: Peter Lang.
- SCHROEDER, D. (2012). "Human Rights and Human Dignity: An Appeal to Separate the Conjoined Twins". *Ethic Theory Moral Practice*, 15, pp. 323-335.
- (2008). "Dignity: Two Riddles and Four Concepts". *Cambridge Quarterly of Healthcare Ethics*, 17 (2). pp. 230-238.
- WALDRON, J. (2012). *Dignity, Rank and Rights*. UK: Oxford University Press.
- (2013). "Is Dignity the Foundation of Human Rights?". *New York University Public Law and Legal Theory Working Papers*. Paper 374, pp. 1-29.

Case law:

- (1985) - Sentencia del Tribunal Constitucional 53/1985, de 11 de abril de 1985.
- (1978) - *Tyrer v United Kingdom*, Merits, App No 5856/72, A/26, [1978] ECHR 2, (1980) 2 EHRR 1, IHRL 17 (ECHR 1978), 25th April 1978, European Court of Human Rights [ECtHR].
- (1999) - *Selmouni and Netherlands (intervening) v France*, Admissibility, merits and just satisfaction, App no 25803/94, Case No 100/1995/606/694, ECHR 1999-V, [1999] ECHR 66, 29 EHRR 403, 7 BHRC 1, IHRL 3247 (ECHR 1999), 28th July 1999, European Court of Human Rights [ECtHR, Grand Chamber].
- (1999) - *Manuel Wackenheim v. France*, Communication No 854/1999 [2002] U.N. Doc. CPR/C/75/D/854/1999.
- (2001) - *Queen v East Sussex County Council* [2003] EWHC 167 CO/4843/2001.
- (2004) - *Omega Spielhallen-und Automatenaustellungs GmbH v Oberbürgermeisterin der Bundesstadt Bonn ECJ* [2004] C-36/02.
- (2004) - *Ghaidan v Godin-Mendoza* (FC) [2004] UKHL 30 and *R v Secretary of the State for home department* [2005] UKHL 66.
- (2005) - *R (Limbuella) v. Secretary of State for the Home Department*, *R (Tesema) v Same* and *R (Adam) v Same* [2005] UKHL.

