

HUMAN DIGNITY AND HUMAN RIGHTS

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Abstract: The concept of human dignity as the most intimate human desire and its interpretations transgress the fields of theology or philosophy and shows its relevance in policymaking, economics or technology. This article analyzes the concept of dignity as a cornerstone of the Universal Declaration of Human Rights (UDHR). Drawing its legitimacy from the United Nations as a community of nation states, the charter states its universality but as such it was and still is today questioned and denied. The UDHR antagonistic counterpart was drafted in 1990 in Cairo, bears the title the Cairo Declaration on Human Rights in Islam and is, according to its drafters, also based on the concept of dignity, leading to the question of diverse and opposed interpretation and implementation of the concept.

Keywords: human dignity, human rights, Universal Declaration of Human Rights (UDHR), Cairo Declaration of Human Rights in Islam (CDHRI)

Introduction

A common definition of the concept of human dignity describes it *as an individual or group's sense of self-respect and self-worth, physical and psychological integrity and empowerment*¹ and is, as such, as old as human awareness. And although it represents a common goal for human kind, it greatly differs in understanding and implementation.

In order to understand the diversity in interpretation, the goal of this paper is to describe and analyze the way the concept of dignity is employed as a cornerstone of the Universal Declaration of Human Rights (UDHR). Drawing its legitimacy from the community of nation states sponsorship, the charter states its universality from the title on but, as

¹ <http://www.duhaime.org/LegalDictionary/H/HumanDignity.aspx>

history would show, the universal validity was and is still today questioned and denied. The UDHR antagonistic counterpart was drafted in 1990 in Cairo, bears the title the Cairo Declaration on Human Rights in Islam and is exactly what it announces in the title: a human rights charter drafted and ratified by Muslim states born out of the feeling that the UDHR does not represent the beliefs and endeavours of the Muslims worldwide. As cornerstone of this document, the authors set again, the concept of human dignity.

So the question emerges: how come that an idea so common and dear to the human mind can flow into so fundamentally different political, social and religious implementations and serve various and, more often than not, opposing ends?

The Universal Declaration of Human Rights (UDHR)

The Universal Declaration of Human Rights (UDHR) is a document adopted by the United Nations General Assembly on 10 December. The Declaration consists of 30 articles affirming individual's rights which have been specified in following international treaties, human rights instruments, national constitutions and other laws.

In 1946 The United Nations' Commission on Human Rights came to existence. The Commission had as purpose the creation of an international bill of rights. After two years of drafting, discussion, revision, and gradual agreement on the part of members representing eighteen nations with often sharply divergent political viewpoints and traditions—the ensuing document, titled the Universal Declaration of Human Rights, was adopted and ratified on December 10, 1948².

At the moment the Commission was formed and mandated the awareness of the barbarisms and massacres committed during the Second World War were still very much alive in the collective memory of the people. The shock over the discovery of Nazi death camps and the systematized atrocities constructed on the premise that some races, some ethnic groups, some nationalities, some persons of this or that condition or persuasion were not genuinely human, but rather subhuman beings, who should be exterminated served as a link between the members of the Commission who represented a very heterogenic group in terms of

² <https://www.un.org/en/universal-declaration-human-rights/>

ethnicity, religion and philosophical orientation. And, given the diverse political visions and principles represented within the Commission, it was clear from the beginning outset that this unique bill of rights would have to employ a rather more practical language than theoretical—carefully avoiding metaphysical and religious formulations.³

Morink argues that the purely secular character of the Universal Declaration - without even a reference in Article 1 to “nature” as the source of human reason and conscience, was which was present through most of the drafts - was the result of careful redacting. The French member of the Commission and key drafter Rene Cassin said that the text “*allowed the Committee to take no position on the nature of man and of society and to avoid metaphysical controversies, notably the conflicting doctrines of spiritualists, rationalists, and materialists regarding the origin of the rights of man*”⁴.

What is the basis for claiming that human beings have rights? The avoidance of any religious or metaphysical answer meant that the drafters could not have recourse to the idea that persons are endowed by a Creator with certain “unalienable rights,” as proclaimed in the U.S. Declaration of Independence. Nor could they allow *inalienable rights* to derive from the state, or any other social organ something socially conferred can, on principle, be socially rescinded. Thus, precluding any religious or metaphysical answer to the question of the basis for the claim of human rights, the drafters leaned on the concept of intrinsic dignity as basis of their claims: human beings, due to qualities they possess, have a special value or distinctive worth, that in each case and without exception should be respected and nourished. Thus the Declaration’s first words proclaim the *inherent dignity* of each member of the human family⁵.

The Declaration’s famous opening clause of the preamble actually affirms human dignity and human rights in simple sequence rather than as a causal relation: “*Whereas recognition of the inherent dignity and of*

3 Michael, Novak, “Human Dignity, Human Rights.” *First Things* 97 (November, 1999), 39-42.

4 Johannes Morsink, *The Universal Declaration of Human Rights: Origins, Drafting & Intent*, (Philadelphia, Pa.: University of Pennsylvania Press, 1999), 287.

5 Glenn Hughes, “The Concept of Dignity in the Universal Declaration of Human Rights” in *Journal of Religious Ethics*, Inc, vol 39, no.1, (Blackwell Publishing Ltd, Hoboken, New Jersey, 2011), 1-4.

*the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world*⁶!

So, human dignity is the foundation of the Declaration's affirmation of rights, and this view of dignity as founding rights has been reassessed and reaffirmed in numerous charters, bills and constitutions worldwide since 1948. But where did the concept of human dignity as described in the Declaration of Human Rights come from and what historical, religious and philosophical avenues of thought employed the drafters - knowingly or unknowingly -, in shaping the cornerstones of this document?

The Concept of Dignity and its History

The word *dignity* derives from the Latin *dignitas* and thus originates in Western language and thought; nevertheless the word was embraced and reinterpreted as representing a concept both universally understandable and corresponding to equivalent words or ideas in non-Western cultures. Thus Hindu, Buddhist, Islamic, and Confucian traditions reorganized the term *dignity* as a referring to the worth of, and the respect owed to, every human being. This fact noted, however, the fact remains that the concept of dignity as used in conjunction with the idea of human rights does originate in Western thought. One could trace the concept's genesis to ancient Stoic philosophers and the Judeo-Christian conception of the human being as *imago Dei* - *as made in the image and likeness of God* -, and partakes in transcendent divine freedom, reason, power, creativity, moral concern and love⁷.

The concept of *human dignity* and later of *rights of man* appears in medieval writings, early modern political texts addressing natural law and natural rights⁸, in Renaissance humanist ideas⁹, in Enlightenment declarations up to the modernity. Thus the Christian anthropological

6 <https://www.un.org/en/universal-declaration-human-rights/>

7 Dietrich Ritschl, "Can Ethical Maxims Be Derived from Theological Concepts of Human Dignity?" In *The Concept of Human Dignity in Human Rights Discourse*, David Kretzmer and Eckart Klein eds., (The Hague: Kluwer Law International, 2002), 87-98.

8 Ioan-Gheorghe Rotaru, "Religious liberty – a natural human right", *Jurnalul Libertății de Conștiință*, Ganoune Diop, Mihnea Costoiu, Liviu-Bogdan Ciucă, Nelu Burcea (coord.), (Les Arsc, France: Editions IARSIC, 2015), 595-608.

9 Ioan-Gheorghe Rotaru, *Istoria filosofiei, de la începuturi până la Renaștere*, (Cluj-Napoca: Presa Universitară Clujeană, 2005), 349-351.

vision of human beings as creatures distinctively endowed with freedom, reason, conscience, and creative power—each of whom is unique and irreplaceable, and all of whom share both a basic spiritual equality and an obligation to love and respect each other was gradually built and resulted in the contemporary democratic and liberal ideas of individuals, society, and human rights¹⁰.

Glenn Hughes argues that “most drafters of the *Universal Declaration* were unconcerned with these historical roots of the contemporary idea of human dignity as they were aware that the twentieth-century ideals and principles of a liberal democratic order and human rights were deeply indebted to the Christian idea of the human being as a person gifted with an inalienable dignity through her created participation in the freedom and self-determination of a transcendent God”¹¹.

So, even if framers of the Declaration, were aware of the Christian anthropological grounding of the modern Western idea of human dignity they left this reasoning un-articulated in the document itself believing that, although without contextualization, the founding principle of dignity was both universal and pluralistic. This concept’s disconnection from its religious and metaphysical associations, did open it to vulnerability and to a variety of criticisms both from religious groups missing the religious grounding and also from the secular academic community complaining the concept’s lack of substance and lack of consensus regarding its source¹². Nevertheless, this decontextualizing approach which strips the concept of any defining religious or metaphysical framework also allows it to function as a heuristic concept.

Inherent Dignity and Achieved Dignity

According to Hughs, “*the core constellation of meanings in the concept of human dignity consists then of four elements: liberty, responsibility,*

10 David Walsh, “Are Freedom and Dignity Enough?: A Reflection on Liberal Abbreviations.” in *In Defense of Human Dignity: Essays for Our Times*, Robert P. Kraynak and Glenn Tinder eds., (Notre Dame, Ind.: University of Notre Dame Press, 2003), 165 - 191.

11 Glenn Hughes, “The Concept of Dignity in the Universal Declaration of Human Rights” in *Journal of Religious Ethics*, Inc, vol 39, no.1, (Blackwell Publishing Ltd, Hoboken, New Jersey, 2011), 8.

12 Glenn Tinder, “Facets of Personal Dignity”, in *In Defense of Human Dignity: Essays for Our Times*, Robert Kraynak and Glenn Tinder eds., (Notre Dame, Ind., University of Notre Dame Press, 2003) 237 - 245.

*irreplaceability, and vulnerability to suffering and degradation. This is in fact the concept of human dignity that informs the Universal Declaration. Human rights derive from human dignity, since it is because we are responsibly self-determining, unique, and vulnerable beings that we have an inalienable right to those conditions and opportunities that will allow us to freely and fully develop as persons*¹³.

So, humans possess dignity-based rights regardless whether or not one endeavors to achieve dignified living. In the Declaration's context, the concept of dignity is employed in two distinct ways: on one hand the Declaration begins with the statement that persons are born with dignity, that persons have an inherent dignity, which does not have to be sought or strived for, and which has nothing to do with achievements... it is a given and should not ever be up for discussion or controversy. On the other hand, the Declaration is concerned to specify, proclaim, and promote the observance of those rights that will allow and be foundation for the achievement of dignified living. It thus describes a concept of achieved human dignity.

Firstly, the concept of inherent human dignity describes the idea that a person ontologically possesses the right to those freedoms and protections that would allow dignified living to be achieved. Respect for inherent dignity, thus, obliges others to allow or enable that person's dignity to be realized; and so it is the respect for inherent dignity that generates the expression of such freedoms and protections as are listed in the Declaration as civil, political, economic, social, and cultural rights. Both one's personal development and one's contribution to the common good are irrelevant to one's inherent dignity. An inherent dignity is not capacity based: it exists independently of one's physical, mental, and moral capabilities¹⁴.

Secondly, the concept of dignity describes the aspect of achieved dignity: the Declaration specifies rights and freedoms that its authors knew to be essential for the achievement of dignified living like civil and political rights (liberty, privacy, equality before the law; freedom from discrimination based on race, color, language, nationality, sex, property, birth, or religion; freedom of movement; freedom to marry and form

13 Glenn Hughes, "The Concept of Dignity in the Universal Declaration of Human Rights" in *Journal of Religious Ethics*, Inc, vol 39, no.1, (Blackwell Publishing Ltd, Hoboken, New Jersey, 2011), 10.

14 Hughes, *The Concept of Dignity*, 8.

a family and to own property; freedom of thought, expression, and practice of religion; and freedom of peaceful assembly and association), economic, social, and cultural rights, (the right to education; the right to work; the right to equal pay for equal work; the right to proper health care; the right to rest; and the right to participate in the cultural life of the community and to profit of scientific discoveries)¹⁵.

All of these rights are, in the words of the Declaration, “*indispensable for [a person’s] dignity and the free development of his personality*” (Article 22)¹⁶. But, at the end of the day, what is the source of the truth and validity derived from dignity? On what, exactly, is it founded?

In the light of the above, it might be somehow safe to argue that if inherent human dignity exists, it must be a part of human experience. Hughes argues that “*if there is a human nature, then there must be something essential to human beings as such; and something essential to human beings must, by definition, be something beyond all material particularities, which are always changing. If there is a human nature it must transcend differences of biology, culture, and history. Indeed, the concept of human nature, or of a human essence, presupposes the rootedness and participation of that nature in a dimension of reality not intrinsically conditioned by space and time. The technical term for such an unconditioned dimension of reality is transcendence... Transcendence is best thought of as a dimension of meaning—a nonspatial and nontemporal realm of meaning in which humans participate, and which both grounds and completes the meanings implicit in, for example, our moral longing for perfect justice, or our consciousness of the infinite value of each human person*”¹⁷.

We may thus argue that such a transcendence would have a protective function by anchoring human dignity in a reality beyond the confines of race, class, gender, and ethnicity; it would prove so its universal compatibility with religion and philosophy alike finally, it would proclaim an ultimate value in which all other values find their source. Most religious and philosophical traditions identify this ultimate value with profound empathy and, love—that is, with a profound concern for

15 Ibid, 9-10.

16 <https://www.un.org/en/universal-declaration-human-rights/>

17 Glenn Hughes, “The Concept of Dignity in the Universal Declaration of Human Rights” in *Journal of Religious Ethics*, Inc, vol 39, no.1, (Blackwell Publishing Ltd, Hoboken, New Jersey, 2011), 15- 16.

the good of others¹⁸. And this is exactly the desideratum that transgresses from the Universal Declaration's statement.

Cairo Declaration of Human Rights in Islam (CDHRI)

In 1948, when the UN General Assembly ratified the UDHR, two Muslim countries, Saudi Arabia, and Pakistan expressed contradictory views: Pakistan strongly endorsed the document, while Saudi Arabia argued that Islamic Shari'ah had already adequately recognized the rights of men and women in Islam rendering UDHR obsolete, and consequently refused to endorse it¹⁹.

After the promulgation of UDHR, the question of human rights began to gain on relevance in the Muslim world. Some Muslim countries had already won their independence, became members of the United Nations, and began to voice their view of human dignity and rights from a Muslim perspective especially since various Muslim countries had criticized the 1948 Universal Declaration of Human Rights for its failure (in their opinion) to respect the cultural and religious context of non-Western countries. One of the most ardent voices in this matter was the post-revolutionary Iranian ambassador to the UN who articulated the Iranian position regarding the UDHR, arguing that it was *a secular understanding of the Judeo-Christian tradition*, impossible to be transposed into reality by Muslims around the world without trespassing Islamic law²⁰.

Thus, the conversation around human rights based on the Qur'anic concept of human dignity has gained relevance in following decades times as Muslim-majority nation-states created supranational political institutions designed to secure Muslim interests. One of the most important international Muslim bodies is Organization of the Islamic Conference (OIC) - an international intergovernmental Islamic political institution representing all Muslim majority nation states. In 1990, OIC adopted the Cairo Declaration of Human Rights (CDHRI) which represents the cornerstone of international Muslim human rights

18 Hughes, *The Concept of Dignity*, 16.

19 Ann Elizabeth Mayer, *Islam and Human Rights: Tradition and Politics* (2d ed., Westview Press 1995), 11.

20 Nayeefa, Chowdhury, "The Quest for Universal Human Rights: A Brief Comparative Study of Universal Declarations of Human Rights by the UN and the Islamic Council of Europe" in *The International Journal of Human Rights* (Vol. 12, No. 3, 2008), 347-352.

agenda. The Cairo Declaration on Human Rights in Islam (CDHRI) is thus a declaration of the member states of the Organisation of Islamic Cooperation which describes the Islamic perspective on human rights. CDHRI declares its purpose to be “general guidance for Member States in the field of human rights”²¹.

In the Charter’s Preamble, the members pledge to increase human well-being, progress and freedom everywhere; they resolved to unite their efforts in order to achieve universal peace, security, freedom, and justice for all people throughout the world. The Charter recognizes the importance of human dignity and rights, and specifically points out in the Preamble that its member states “reaffirm their commitment to the UN. Charter and fundamental Human Rights, the purpose and principles of which provide the basis for fruitful cooperation amongst all people”²².

Nevertheless, the CDHRI parts with the Declaration of Human Rights right after that when it states that the sole authority and guidance is drawn from the Qur’an and only the Qur’an establishes the scope and quality of its affirmations. As reasoning for the concept of human dignity as cornerstone of human rights, the Qur’an is cited: “We have bestowed dignity on the progeny of Adam.” The verse then continues to remind the people of God’s special blessings unto them through physical and intellectual abilities, natural resources and with superiority over most other creatures in the world. This dignity is bestowed through God’s act of creating Adam and breathing into him His Own Spirit²³.

The Declaration affirms that *all human beings form one family whose members are united by their subordination to Allah and descent from Adam*. It continues by proclaiming the sanctity of life, and declares the *preservation of human life to be a duty prescribed by the Shari’ah*²⁴.

The train of thought continues by stating that since all human beings originated from Adam and his spouse, every single human being possesses this dignity in terms of basic human dignity and basic obligations and responsibilities, without any discrimination on the

21 <https://blogs.lse.ac.uk/mec/2012/12/10/1569/>

22 M. Berween, “The Fundamental Human Rights: An Islamic Perspective” in *The International Journal of Human Rights*, (6:1, 2002) 61-79.

23 Abdullah al-Ahsa, Law, “Religion and Human Dignity in the Muslim World Today: an Examination of OIC’S Cairo Declaration of Human Rights” in *Journal of Law and Religion*, Vol. 24, No. 2 (Cambridge University Press 2008-2009), 569-597.

24 <https://blogs.lse.ac.uk/mec/2012/12/10/1569/>

basis of race, colour, language, belief, sex, religion, political affiliation, social status or other considerations. True religion is the guarantee for enhancing such dignity along the path to human integrity. The whole of mankind, as *khalifah* (vice-regent) is responsible for keeping peace on earth through divinely ordained principles such as *amanah* (trust), *'addlah* (justice) and *shura* (consultation)²⁵.

The OIC Charter declares member countries' pledge to further and develop the brotherly and spiritual friendship of their citizens, and protect their freedom and the common legacy of their civilization founded on the principles of justice, toleration, and non discrimination. The document argues that fundamental human dignity and universal freedom of the individual in Islam are an integral part of the Islamic religion and no one as a matter of principle has the right to violate, suspend or even ignore them. As mentioned above, CDHR was drafted after UDHR, but it frequently refers to the Qur'an, the prophetic teachings, and the Islamic legal tradition as sources of inspiration and differs in the most decisive way when defining and interpreting the concept of human dignity as base for human rights. Thus, these significant references to the Islamic sources of law confirm and substantiate the fundamental differences between the two declarations²⁶.

One obvious example of a significant difference is that of the extent of individual's freedom of choice: the Universal Declaration of Human Rights stands for absolute freedom of individual choice but the Qur'an describes certain fundamental values. Islamic Shari'ah, doesn't permit sexual relations outside the institution of marriage, marriage between two members of the same sex and civil laws allowing these acts are forbidden. The Human Rights Watch often reports about cases of discrimination in Muslim countries on these issues, yet any observer of political developments in Muslim countries would agree that these issues are inexistent in the public discourse and thus, by default, not fundamental problems of human rights violations²⁷.

So, both content and wording in the Cairo Declaration reveal an uncompromising dissidence from universalism as it reflects a clear favoritism towards regionalism in a number of its provisions and it favors a religious interpretation of the concept of human dignity and its boundaries of philosophical morality, in the form of Shari'ah law.

25 Al-Ahsa, *Religion and Human Dignity*, 569 - 570.

26 Ibid. 572 - 574.

27 <https://blogs.lse.ac.uk/mec/2012/12/10/1569/>

Conclusion

Dignity seems to be something that virtually all people want and endeavor to find, live by, cherish and preserve for future generations. It is a seminal expression of human experience regardless of race, gender, location, belief or social status. Even so, the understanding of the human dignity concept appears to be anything but united and/or unifying. This article endeavored to show how a diverse understanding of a profoundly subjective and conditioned concept of well-being can and had influenced policy and politics on a worldwide scale. It described the divergences between a rights-based understanding of dignity versus a value-based one. And it argued that a different approach to the dignity concept will flow into fundamentally different approach to national policy and public discourse, all serving their various ends.

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