

How the dignity was understood in law in past and how it should be today

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Abstract

In the current legal discourse, the concept of dignity is becoming more common. It is considered the highest axiom, which every violation deserves to be condemned. However, we forget about the conceptual basis of a given concept, its history and original overtones. We do not remember that certain concepts are created solely to systematize the created or existing social and political situations. The purpose of the article is to attempt to answer the question of how to understand the concept of dignity in legal discourse. It is worth bearing in mind that dignity is indicated as "this" (value or maybe something else) from which human rights originate. That is why it should be rejected as a value because the value itself is not a value. However, one must opt for an objective understanding of dignity, rejecting its moral background proposed, among others by the doctrine of the Catholic Church, if we want to treat it as a legal category.

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1. Introduction

Dignity is a meta-concept justifying acceptance of the existence of other concepts, including reputation. Nowadays, most social institutions² do not have really existing designations. The burden of discourse was transferred to the language sphere representing certain emotional impressions that are connected with the given concepts. There is a simple process of creating a syntagmatic relationship³. Often, however, this undertaking is insufficient and is followed by an analogous process (paradigmatic relation). I.e. we justify the abstract concept with an abstract concept. Such a relationship undoubtedly exists, for example, between reputation and dignity. Determining its etymology and evolution of meaning is not easy, but it is worth making this effort, because etymology explains the essence of the concept⁴. At the beginning, however, it should be noted that the first concepts of dignity in principle do not define it, but only explain its genesis justifying the special role of man in the

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² D. North, *Institutions, Institutional Change and Economic Performance*, Cambridge University Press, New York 1990, p. 2.

³ R. Bartsch, *Dynamic conceptual semantics. A logico-philosophical investigation into concept formation and understanding*, Center for the Study of Language and Information, Leyland 1998, p. 78.

⁴ Plato, *Kratylos*, Zakład Narodowy im. Ossolińskich, Wrocław 1990, s. 23.

world⁵. In the concept of dignity, some authors saw the essence of human being, his purpose of existence⁶. Subsequently, this concept evolved towards what results from possessing it (imperativeisation of dignity⁷). Some thinkers did not address the subject of dignity in general, but due to its intensification, understood today, a reference to the concept of dignity is attributed to their reasoning⁸. However, the most important issue here seems to be the logical nature of the concept of dignity and its function explaining other concepts (phenomena), from which outlined interpretation problems arise. This is the function that diverges in its understanding. Some described it as a special human position in the world or society, others as a justification for ethical behavior, others as the basis for the existence of (human) rights. Moreover, one cannot speak of a linear development of the concept of dignity. Current concepts have been known nowadays for a long time⁹ (e.g. equality of all people in the philosophy of Protagoras¹⁰ and Seneca¹¹), but considerations are often overlooked as not fitting into the understanding appropriate for a given era. Another mistake in understanding the concept of dignity is attributing the rigidity of its (subjective understanding) intensity and on this basis attributing the concept of dignity to authors¹², even though it was not even their goal to create such meaning¹³.

2. Linguistic analysis of the concept of dignity with the etymology with an example of polish *godność* (dignity)

The polish concept *godność* (dignity) comes from the old Polish *god*, meaning time. From what *gody* (contemporary mating), *godzina* (an hour), *dogodny* (convenient), as well as *godny* (worthy), that is, originally on time, in time, which in time began to express an appropriate, honorable, fair, appropriate, from which the appropriate noun forms come¹⁴. The genesis of Latin is very similar. *Dignitas*, from the proto-Indo-European prefix *dec-*, i.e. accept, of which *decus*, *decor* (handsomeness, beauty, grace)¹⁵, Latin in turn. *dignus* - relevant, suitable, valuable and finally value¹⁶. Similar is the etymology of the Greek *αξιοπρέπεια* derived from

⁵ K. Gilfillan, *An Aristotelian conception of dignity: magnanimity and the happy life of the philosopher*, Fort Worth, Texas 2015, pp. 27-31.

⁶ F. J. Mazurek, *Godność osoby ludzkiej podstawą praw człowieka*, wyd. KUL, Lublin 2001, p. 23.

⁷ W. Tatarkiewicz, *Historia Filozofii*. Tom 2, PWN, Warszawa 1988, pp. 161-184.

⁸ M. Piechowiak, *Tomasza z Akwinu koncepcja godności osoby ludzkiej jako podstawy prawa. Komentarz do rozdziałów 111-113 księgi III Tomasza z Akwinu. Summa contra gentiles*, [in:] *Poznańskie studia teologiczne*, 14/2013, p. 221.

⁹ S. Swieżawski, *Dzieje filozofii europejskiej w XV wieku*. Tom VI. *Człowiek*, Akademia Teologii Katolickiej, Warszawa 1983, p. 185.

¹⁰ A. Verdoss, *Statisches und dynamisches Naturrecht*, Rombach, Friburg 1971, p. 86.

¹¹ F. J., Mazurek, *Godność...*, pp. 21-22.

¹² E. Soto Kloss, *Straotestamentowe podstawy godności człowieka*, [in:] K. Complak (red.), *Godność jako kategoria prawna*, Centrum handlu i Poligrafii, Wrocław 2001, pp. 58-63.

¹³ A. Krokiewicz, *Sokrates. Etyka Demokryta I hedonizm Arystypa*, Aletheia, Warsaw 2000, pp. 161-165.

¹⁴ A. Brückner, *Słownik etymologiczny języka polskiego*, L. Anczyca i spółka, Cracow 1927, pp. 147-148.

¹⁵ M. Środa, *Idea godności w kulturze i etyce*, WFiS UW, Warsaw 1993, p. 8.

¹⁶ <https://www.etymonline.com/word/dignity>, (access on 30.06.2019).

the words αξιο value, and πρέπων the appropriate, proper, from the verb πρέπω must, should, earlier from the adjective αξιοπρεπής - decent¹⁷. It seems that the etymology of given words underlies the interpretation of the adjective dignity as befitting the recognition of dignity as a moral determinant¹⁸. To understand the contemporary, in particular normative, understanding of the concept of dignity, it is necessary to combat its fossilized interpretation based on this archaic meaning of this phrase. Dignity as a human property has nothing to do with ethics. The terms sense of dignity, personality dignity and personal dignity having a psychological and sociological background, i.e. justifying such phenomena, i.e. extremely objectified¹⁹, should also be rejected.

3. Dignity in ancient philosophy

Dignity in ancient philosophy was understood subjectively. This concept described the value of man and justified his special position in the world. Its background was external, and its source was the Creator (Demiurge)²⁰. One should mention, however, Plutarch's view about the gods that people (sages) match them with virtue and happiness²¹. The concept was not uniform in content. Often, giving a man the attribute of dignity depended on his social status (sage, aristocrat, citizen)²², gender or age²³. It was treated as a virtue. In the philosophy of ancient Greece (Plato, Aristotle) it was a secondary value in relation to man and his actions. It was only the actions of a man that determined whether he had dignity²⁴. Referring to the stages of creating concepts in the teleological aspect, the concept of dignity was to justify the existence of human emotional states (soul, will)²⁵. It was also supposed to reflect the detachment of man from the universe, his lack of determination by instinct, and more precisely the ability to control emotions. Man was worthy when he could control his emotions²⁶.

Dignity in the philosophy of ancient Rome was understood differently than in the approach of Plato and Aristotle. In the understanding of the Stoics, it was an

¹⁷ <https://el.wiktionary.org/wiki/%CE%B1%CE%BE%CE%B9%CE%BF%CF%80%CF%81%CE%B5%CF%80%CE%AE%CF%82>, (access on 30.06.2019).

¹⁸ M. Środa, *op. cit.*, p. 111 and following.

¹⁹ J. Mariański, *Godność ludzka jako wartość społeczno-moralna: mit czy rzeczywistość? Studium interdyscyplinarne*, wyd. Adam Marszałek, Toruń 2016, p. 109.

²⁰ M. Piechowiak, *Plato and the Universality of Dignity* [in:] *Themis Polska Nova* 2(9)/2015, pp. 9-10.

²¹ Plutarch, *Moralia (Wybór)*, PWN, Warsaw 1977, p. 33.

²² M. Środa, *op. cit.*, p. 17-71.

²³ L. Bosek, *Gwarancje godności ludzkiej i ich wpływ na polskie prawo cywilne*, Wydawnictwo Sejmowe, Warsaw 2012, p. 13.

²⁴ M. Jendrzyszczak, *Idee sprawiedliwości oraz własności w interpretacji Platona i Arystotelesa*, [in:] *Studia Ekonomiczne. Zeszyty Naukowe Uniwersytetu Ekonomicznego w Katowicach*, 236/2015, pp. 9-10.

²⁵ J. Domański, *Godność człowieka a zagadnienie jego wolności w filozofii starożytnej*, [in:] J. Czerkawski (red.), *Zagadnienie godności człowieka*, Wyd. KUL, Lublin 1994, pp. 11-13.

²⁶ Plutarch, *Moralia: wybór pism filozoficzno-popularnych*, Zakład im. Ossolińskich, Wrocław 1954, pp. 248-278.

internal state of man manifesting itself as a sense of self-worth, and it was not an attribute specific only to man, but to all objects and phenomena whose prices could not be determined, although they undoubtedly constituted some value²⁷. Cicero understood dignity as an office worthy of honor, respect and seriousness²⁸. This is considered to be the first use of the concept of dignity²⁹, although Xenophon has already used that term for a state position³⁰.

In the Bible, in particular the Old Testament, a portrait of man was created as *Imago Dei*³¹. The exegesis of Sacred Scripture is a classic example of a misunderstanding of the concept of dignity by ascribing it to modern understanding. Man in the Bible is God's substitute on Earth, and his existence is to focus on the implementation of God's will. Man is free³², but as a divine creation endowed with reason, he must act as God has commanded him³³. On the one hand, dignity in the biblical sense (creation in the image of God) is understood as a source of rights³⁴, on the other as a determinant of behavior in accordance with the will of the Creator.

In ancient philosophy, dignity was not inherent and inalienable, i.e. it could be lost. She was only available to parts of the society. It was understood as a virtue that can be attributed to a few. Cicero described virtue as the efficiency of the spirit in accordance with the rules of both nature and mind, which was the effect of reason³⁵. Her origin had an external and secondary human character. The source of human dignity were gods, and it was updated in deeds. Therefore, it was understood as a moral norm of the individual's behavior.

4. Dignity in the philosophy of the Middle Ages

Medieval philosophy focused primarily on the concept of God devoted little attention to man *in generale*, and if he did it through the prism of the Savior. The basis of the existence of dignity, as in ancient times, were external factors. It was understood as a moral axiom. God as a perfection manifested in man in the form of free will³⁶. Dignity could be attributed to those who acted with dignity or virtue. Man was to strive for holiness, return to the state before the first sin³⁷. Virtues were not

²⁷ Lucius Annaeus Seneca, *Listy moralne do Lucyliusza*, PWN, Warsaw 2010, p. 114.

²⁸ https://www.loebclassics.com/view/marcus_tullius_cicero-de_inventione/1949/pb_LCL386.333.xml, (access on 30.06.2019).

²⁹ M. Środa, *op. cit.*, p. 8.

³⁰ Xenophon, *Memorabilia*, Cornell University Press, Ithaca, London 1994, p. 86.

³¹ S. Swieżawski, *op. cit.*, p. 192.

³² P. Duchliński, A. Kobyliński, R. Moń, E. Podrez, *Etyka a fenomen życia*, Wydawnictwo Naukowe Akademii Ignatianum w Krakowie, Cracow 2017, pp. 197-198.

³³ A. N. Woznicki, *Dignity of Man as a person. Essays on the Christian Humanism of His Holiness John Paul II*, Society of Christ Publications, San Francisco 1987, pp. 1-2.

³⁴ A. Maryniarczyk, *Dekalog a prawo naturalne*, [in:] *Człowiek w kulturze. Pismo poświęcone filozofii i kulturze*, 03/1994, pp. 145-146.

³⁵ Marcus Tullius Cicero, *O państwie. O prawach. O powinnościach. O cnotach*, PWN, Warsaw 1960, p. 654.

³⁶ St. Augustin, *Wyznania*, ZNAK, Cracow 2018, pp. 12-26.

³⁷ F. van Steenberghen, R. Guindon: *Béatitude de théologie morale chez Saint Thomas d'Aquin-Interpretation*, [in:] *Revue Philosophique de Louvain*, 55/1959, pp. 477-478.

part of human nature³⁸, but they could be improved, which required effort. And putting effort into the development of virtues was called dignity³⁹. Gaining virtue was through heroism or asceticism. So man was formally the most perfect being, but in comparison with divine perfection he was imperfect and his goal was to strive for perfection. St. Augustine recognized virtue as a property of the soul, which urges us to do good, by means of which God influences man and even acts in man⁴⁰. St. Thomas understood dignity as an attribute of beings that are rational and free⁴¹. As the essence of dignity Aquitaine pointed to "goodness of someone because of himself", "something nobly beneficial and positive for someone because of himself", "something good for someone"⁴². Dignity, it seems, was to explain the phenomenon of thinking, as well as freedom⁴³ (free will), which allowed to overcome the determination of the instincts of the right animals⁴⁴. Interesting views on the subject of dignity were also presented in this period by Francis Sylwester from Ferrara, known as Ferranian. According to him, man is an imperfect image of God, but at the same time he is most similar to God⁴⁵. The teleology of the concept of dignity itself does not differ significantly from its predecessors and serves to explain the existence of human reason. Wisdom gives man the value of dignity, but it is only a degree of perfection, not a structural element of being. Just as human bodies are varied, so are souls as their individual forms. That is why there is a variation in the degree of nobility (*nobilitas*) among people, but "*one man is therefore no more (magis) man than the other, although he would be a more perfect person, therefore we do not use this term (more) except for forms in which change between more and less, which is not the case in the intellectual soul, because every perfection that he receives at the beginning remains essentially unchanging. So there can be one man better than another by the power of intellect, because he has a better and nobler soul, however, and this may come from a better disposition of the sensual authorities, which the intellect requires in their action*"⁴⁶. Wisdom is inherent in every human being and its level does not allow to define a man differently from man, even if he did not represent intellectual properties proper to even average representatives of the human species. This is a great innovation in medieval doctrines. Ferranian's views, in a way,

³⁸ J.B. Korolec, *Perfekcjonizm kultury średniowiecznej*, [in:] J. Czerkowski, *op. cit.*, pp. 25-27.

³⁹ J. Rudniański, K. Murawski (red.), *Na krędezi epoki. Rozwój duchowy i działania człowieka*, PIW, Warsaw 1985, p. 100.

⁴⁰ J. B. Korolec, *op. cit.*, p. 25-27.

⁴¹ S. Pickaers, *La dignité de l'homme selon Saint Thomas d'Aquin* [in:] A. Holdeeregger, R. Imbach, R. Suárez de Miguel (red.), *De dignitate hominis*, Editions Universitaires, Friburg 1987, p. 91.

⁴² M. Gigacz, *Filozoficzna identyfikacja godności osoby*, [in:] J. Czerkowski (red.), *op. cit.*, p. 116.

⁴³ St. Tomasz, it seems, was the first to notice the relationship between reason and freedom, and yet freedom comes from reason. But is it possible to convert these values, i.e. to say that only those who are free think, proper reason is only a free being. Both animals and people are free in the sense that they can make decisions independently of others, are able to predict the consequences of their actions.

⁴⁴ M. A. Krąpiec, *Człowiek bytem osobowym. Św. Tomasza koncepcja człowieka*, [in:] *O godności osoby ludzkiej*, Stowarzyszenie Spes Vitae, Radom 2002, pp. 25-27.

⁴⁵ M. Ciszewski, *Godność człowieka i wzniosłość nauki o nim w ujęciu Franciszka Sylwestra z Ferrary*, [in:] J. Czerkowski (red.) *op. cit.*, p. 47.

⁴⁶ *Ibidem*, p. 56.

give dignity to animals, because unreasonable beings (*animals*) represent God in the likeness of a trace left (*vestigium*)⁴⁷. The effect represents the cause enabling to know the cause of this cause, that is, animals also represent God. Moreover, human dignity is due to the fact that he is an image of God, but also to the fact that he reflects creation in its entirety. "*Intellectual nature virtually contains all the formal degrees of other things, as well as the rational soul contains united other forms (...) because it is like God in intellectual nature.*" "*God (...) created man in the last place (...) so that (...) he was put as the end (terminus) of all other creatures (...)*"⁴⁸. It also presents man as an animal, because it has everything that is proper to animals.

5. Dignity in the Renaissance philosophy

Reformation and other social changes accompanying the 16th and 17th centuries contributed to some modifications in the perception of human nature. From the philosophy of the Middle Ages was taken what exalted man, ignoring the imperfection of human nature. The concept of dignity as a moral indicator was still alive, but more often it was postulated to reject dignity dependence on the state of origin (*Homines, mihi crede, non nascuntur, sed finguntur*)⁴⁹. Man could become an earthly god⁵⁰. There were also views proclaiming the dignity of not only human reason (soul), but also the human body⁵¹. Mikołaj Dłuski even acknowledged that the uniqueness of man is evidenced by his anatomical structure⁵². Increasingly, man was considered an animal (*homo animalis*), but a special animal. And what distinguished man from animals was called dignity⁵³. Dignity began to be recognized as a primary value⁵⁴, although God still remained its genesis⁵⁵. The philosophy of rebirth shifted the burden of reflection on the essence of the human species from God and his relationship to the world, to man and his relationship to God and the world. The idealization of man contributed to the consideration of human dignity as the basis for the existence of his rights, departing from his perception as a moral determinant. Man was a miracle (*magnum miraculum est homo*)⁵⁶. Such an

⁴⁷ Ibidem, p. 53.

⁴⁸ Ibidem, p. 54.

⁴⁹ J. D. Tracy, *Erasmus the Growth of mind*, Geneva Librairie Droz, Geneva 1972, p. 122.

⁵⁰ P. de Mirandola, *Mowa o godności człowieka*, IFiS PAN, Warsaw 2010, pp. 16-42.

⁵¹ Jan from Trzciana, *De natura ac dignitate hominis*, [in:] *Textus et studia historiam theologiae in Polonia excultae spectatia*, 2(2)/1974, p. 249.

⁵² M. Dłuski, *Mowa o wzniosłości i wspaniałości natury ludzkiej*, [in:] J. Domański (red.), *700 lat myśli polskiej. Filozofia i myśl społeczna*, PWN, Warsaw 1978, p. 437.

⁵³ Jan from Trzciana, *op. cit.*, p. 239-248.

⁵⁴ T. Guz, *O naturze wrodzonej godności człowieka*, [in:] W. Lis, A. Balicki (red.) *Normatywny wymiar godności człowieka*, wyd. KUL, Lublin 2012, p. 19; A. Andrzejuk, *Filozoficzne ujęcia godności*, [on:] *Godność jako wartość i problem edukacyjny*, Wyd. Naukowe Uniwersytetu Szczecińskiego, Szczecin 2016, p. 44.

⁵⁵ F. J. Mazurek, *Pojęcie godności człowieka historia i miejsce w projektach konstytucji III Rzeczypospolitej*, [in:] *Roczniki Nauk Prawnych*, T. IV 1996, p. 12.

⁵⁶ J. Czerkawski, *Humanizm i scholastyka: studia z dziejów kultury filozoficznej w Polsce w XVI i XVII wieku*, Wyd. KUL, Lublin 1992, p. 40.

enthusiasm for the human body and its perfection after over ten centuries of treating it as something unworthy has exploded, among others in the views of P. de Mirandoli proclaiming that man's goal is self-creation and self-realization⁵⁷. Man is not determined by anything. Therefore, dignity did not justify human reason (God was still their explanation), but freedom, which was also emphasized by Juan Lusi Vives⁵⁸ and Giannozzo Mannetti⁵⁹, thanks to which man defines himself⁶⁰. Dignity in humanism primarily concerned the positive qualities of man (positive humanism)⁶¹, although there was of course a pessimistic trend proclaiming the total ordinariness of man⁶². In the seventeenth century, there were also concepts assuming the endogenous genesis of dignity, including Hugo Groot⁶³. This concept, however, still held evaluative value concept of dignity⁶⁴. Thomas Hobbes defined dignity as the public value of man, which is given to him by the community, which is commonly called "dignity" (*The public worth of a man, which is the value set on him by the commonwealth, is that which men commonly call "dignity"*)⁶⁵, And the community understands this value by supreme, judicial, public offices or by names and titles introduced to distinguish this value. (*And this value of him by the commonwealth is understood by offices of command, judicature, public employment, or by names and titles introduced for distinction of such value*)⁶⁶. By the value itself Hobbes understood as its price depending on the needs and judgments of others (*The 'value,' or 'worth,' of a man is, as of all other things, his price; that is to say, so much as would be given for the use of his power; and therefore is not absolute, but a thing dependent on the need and judgment of another*). To emphasize the determination of human values from society, he adds: not the seller but the buyer sets the price. Let us, as many do, ascribe the highest value to ourselves, but their true value will be nothing more than that determined by others. (*And, as in other things so in men, not the seller but the buyer determines the price. For let a man, as most men do, rate themselves at the highest value they can, yet their true value is no more than it is esteemed by others*)⁶⁷.

⁵⁷ P. de Mirandola, *op. cit.*, p. 52.

⁵⁸ J. L. Vives, *A fable on Man*, [in:] E. Cassirer, P.O. Kristeller, J.H. Randall (red.), *The Renaissance Philosophy of Man*, University of Chicago Press, Chicago 1956, p. 386.

⁵⁹ G. Mannetti, *On the dignity and Excellence of Man*, [in:] M.L. King (red.) *Renaissance Humanism: An Anthology of Sources*, Hackett, Indianapolis 2014, p. 50.

⁶⁰ A. Kobyliński, *O możliwości zbudowania etyki nihilistycznej. Propozycja Gianniego Vattima*, Wydawnictwo Uniwersytetu Kardynała Stefana Wyszyńskiego, Warszawa 2014, p. 228.

⁶¹ P. Bühler, *Humain à l'image de Dieu*, Labor et fides, Geneva 1989 p. 114.

⁶² M. de Montaigne, *Próby*, Tom 2, PIW, Warsaw 1957, p. 145-150.

⁶³ A. Masferrer, *Taking human dignity more humanely*, [in:] A. Masferrer, E. Garcia-Sanchez (red.) *Human Dignity of the Vulnerable in the Age of Rights. Interdisciplinary Perspective*, Springer, Szwajcaria 2016, pp. 230-231.

⁶⁴ *Ibidem*, p. 248.

⁶⁵ T. Hobbes, *Lewiatan*, Aletheia, Warsaw 2018, p. 176.

⁶⁶ *Ibidem*.

⁶⁷ *Ibidem*, p. 176-177.

6. Dignity in the age of enlightenment and in the nineteenth century

As the awakening of man as such and his flesh was shaken off, more and more attention was paid to the dark strings of human nature. F. Nietzsche believed that dignity is not an innate quality of man, but it is acquired through submission and not through freedom. The dignity that most of us take as the basis for how we should treat others is, Nietzsche suggests, a convenient fantasy of the weak⁶⁸. Although Nietzsche's philosophy is not popular today, this statement cannot be denied rationally. After all, the law is to protect the weaker and equalize their chances⁶⁹. Moreover, the genesis of the concept of dignity is the same as for other abstract concepts whose emergence is dictated by fear⁷⁰.

D. Hume believed that all valuing phenomena can be determined only by comparison⁷¹. So they have no objective value. It is similar with the concept of dignity understood as an ethical indicator. We can only judge if someone acts with dignity if we have a point of reference. Otherwise, the behavior will not be evaluated.

The most popular and most often contemporary eighteenth-century theory of dignity is one created by I. Kant⁷². The thinker from Königsberg defined dignity as the autonomy of man in himself. It manifested itself in action resulting from the inner man, not from external factors. Man's goal is to realize himself without reference to the world around him. So man's goal is not seeking God, happiness, meeting needs, etc. This understanding of dignity attributes to the individual freedom as unlimited, which is to be limited by a man's internal need to follow a categorical imperative⁷³. Kant's theory of dignity combines in this concept two his understandings, as the property of man, and as the ability to follow a moral imperative⁷⁴.

Also noteworthy is the concept of A. Schopenhauer denying the essence of the concept of dignity. As Ebenzer Scrooge points out in nineteenth-century philosophy⁷⁵, dignity has become *the shibboleth of all perplexed and empty-headed*

⁶⁸ A. Huddleston, "Consecration to Culture": Nietzsche on Slavery and Human Dignity, [in:] *Journal of the History of Philosophy* 52(1)/2014, pp. 159-160.

⁶⁹ A. Sobaczyk, *Prawo i człowiek pracujący - między ochroną godności a równości*, https://prawo.amu.edu.pl/_data/assets/pdf_file/0006/173499/Sobczyk-Prawo-i-czowiek-pracujacy-midzy-ochron-godnoci-a-rownoci.pdf, pp. 1-2.

⁷⁰ R. Iwicka, *Źródła klasycznej demonologii japońskiej*, Wyd. UJ, Cracow 2017, p. 8.

⁷¹ D. Hume, *Of the Dignity or Meanness of Human Nature*, [in:] E.F. Miller (red.), *Essays: Moral, Political and Literary*, Liberty, Fund, Indianapolis 1985, p. 80-86. A. Masferrer, *op. cit.*, pp. 243-244.

⁷² D. Schönecker, E.E. Schmid, *Kant's Ground-Thesis. On Dignity and Value in the Groundwork*, [in:] *The Journal of Value Inquiry* 53(3)/2018, pp. 81-95; M. Rosen, *Dignity. Its history and meaning*, Harvard University Press, Cambridge 2012, pp. 19-31; P. Duchliński, A. Kobyliński, R. Moń, E. Podrez, *op. cit.*, pp. 201-212; F. J. Mazure, *Godność...*, pp. 37-41; M.J. Meyer, *Idea godności u Kanta a współczesna myśl polityczna*, [in:] K. Complak (red.), *op. cit.*, pp. 43-55; M. Środa, *op. cit.*, pp. 155-156; E. Picker, *Godność człowieka a życie ludzkie*, Oficyna Naukowa, Warszawa 2007, p. 158.

⁷³ I. Kant, *Uzasadnienie metafizyki moralności*, Wyd. Marek Derewiecki, Kęty 2017, pp. 22-54.

⁷⁴ M.J. Meyer, *op. cit.*, p.44.

⁷⁵ M. Rosen, *op. cit.*, p.1.

*moralists*⁷⁶. He saw in the later use of this concept his instrumentalization and use to promote his concepts. "(...) *This expression "human dignity", once used by Kant, then became a template for and all the thoughtless and helpless moralists who, under this impressive expression "human dignity" tried to hide their lack of real or at least a telling basis of ethics. They calculated, not without reason, that the reader will be pleased to see them dressed in such dignity and that it will completely satisfy him*"⁷⁷.

7. Contemporary views of dignity

Nowadays, two main currents of understanding the concept of dignity can be observed. The first of these treats dignity as the purpose of the proceedings⁷⁸. This trend still justifies the existence of dignity by referring to other abstract concepts, mainly the concept of God. The second way of perceiving the concept of dignity can be called anthropological. According to his representatives, dignity is the basis for the protection of individual rights, including first and foremost the right to life, freedom and equality. The justification for its existence is endogenous, i.e. it results from the very fact of being human, and what distinguishes man among animals is his morphology⁷⁹. Man in the world is nothing but an animal, i.e. a product of the process of evolution. Therefore, all attributes which it possesses to some extent also had to have its previous evolutionary stages⁸⁰. Few of them conclude that animals and people have equal rights⁸¹. Some authors try to combine both concepts (man created by God (*imago Dei*) and man created through evolution (*homo naturalis*) saying: *a holistically perceived man gives birth as a result of "double fertilization", as such,*

⁷⁶ A. Schopenhauer, *On the basis of morality*, Hackett, Indianapolis 1965, p. 100.

⁷⁷ A. Schopenhauer, *O podstawie moralności*, <https://docer.pl/doc/nc801c>, p. 66.

⁷⁸ Further on, the concepts of dignity treating it as an indicator of moral behavior, popular in the doctrine of the Catholic Church are ignored, See: J. Maritain *Pisma filozoficzne*, Znak, Cracow 1988; R. Speaman, *Osoby. O różnicy między czymś a kimś*, Terminus, Warsaw 2001; M.A. Krąpiec, *Człowiek i polityka*, Polskie Towarzystwo Tomasza z Akwinu, Lublin 2007; *Tenże, Ja-człowiek*, wyd. KUL, Lublin 1974; *This same, Metafizyka*, wyd. KUL, Lublin 1978; T. Styczeń, *W drodze do etyki*, wyd. KUL, Lublin 1984; K. Wojtyła (John Paul II), *Centesimus annus*, Dom Wydawniczy Rafael, Vatican 1991; *This same, Dives in misericordia*, <https://papiez.wiara.pl/doc/379020.DIVES-IN-MISERICORDIA> (access on 30.06.2019); *Tenże, Evangelium Vitae*, Pallotinum, Poznań 1995; *Tenże, Laborem exercens*, Wyd. TUM, Wrocław 1995; M. Dróżdż, *Godność osoby ludzkiej jako fundament i cel komunikacji medialnej*, [in:] *Studia Socialia Cracoviensia* 8 (2016) nr 2 (15), pp. 11-28; W. Chudy, *Prawda człowieka i prawda o człowieku*, [in:] K. Popielski (red.), *Człowiek-Wartość-Senp. Studia z psychologii egzystencji*, wyd. KUL, Lublin 1996, pp. 139-141; M. Ossowska, *Pojęcie godności*, [in:] *Etyka* 1/1966; pp. 19-29; N. Luhmann, *Grundrechte als Institution, Ein Beitrag zur politischen Soziologie*, Duncer & Humbolt, Berlin 1974; C.P. Bartnik, *Personalizm*, wyd. KUL, Lublin 1995; H. Piliś, *Godność człowieka jako osoby*, Heliodor, Warszawa 1998; P. Duchliński, G. Hołub (red.) *Ku rozumieniu godności człowieka*, Wydawnictwo Naukowe Papieskiej Akademii Teologicznej, Cracow 2008; A. Dylus, *Godność człowieka: fundament wartości europejskich*, [in:] *Teologia i Człowiek*, Wyd. UMK, Toruń, 2004, nr 3.

⁷⁹ E.M. Engels, *Biologie und Ethik*, Reclam, Stuttgart 1999, p. 24.

⁸⁰ P. Kunzmann, "*Nic jak tylko ssaki?*", [w:] M. Piechowiak, T. Turowski (red.), *Szkice o godności człowieka*, Oficyna wydawnicza Uniwersytetu Zielonogórskiego, Zielona Góra 2012, p. 196.

⁸¹ P. Singer, *Wyzwolenie praw zwierząt*, Wyd. Marginesy, Warszawa 2018, pp. 16-26.

has not only terrestrial and biological parents, but also the Heavenly Father⁸². F. Fukuyama, in turn, seeks the source of dignity in human nature⁸³ as a part of the natural world⁸⁴. It is only all these qualities, even potential ones⁸⁵, that distinguish a person that give him the value of dignity⁸⁶.

J. Habermas human rights are a form of dignity, they are indivisible, i.e. freedom rights make sense only when they exist together with social and cultural rights⁸⁷.

Of the modern concepts of perception, the concept of dignity, of which there are many, deserves recognition also that developed by H. Arendt, incomprehensibly omitted in the discourse. According to the author, dignity is a purely political concept. Its basis of existence is the principle of plurality⁸⁸. The existence of dignity depends on its acceptance by the community in which its bearer lives⁸⁹, ergo, dignity does not exist without its need (*assertion*) and appreciation (*recognition*)⁹⁰. In the *Roots of totalitarianism*, Arendt pointed out that: *the goal of a totalitarian state is to destroy dignity, understood as non-recognition (by the state) of dignity, which consequently destroys its need*⁹¹.

8. Author's proposition

Dignity is not an independent being. It is a conceptual creation of man, created to justify special protection of what he considers to require this protection due to both individual and collective interest. Therefore, there can be no violation of dignity *per se*. It is violated every time any good of man is violated. This statement constitutes the necessity of prohibiting recognition of dignity as a legal good. Its special character included in modern legislation makes it a guarantee of the existence of other goods, without giving it the attribute of value, even the highest one⁹². Dignity as a semiotic attempt to justify a particular human position has no value, nor is it a value. Therefore, the idea of its absolutization⁹³ and belief in its highest value

⁸² Z. Mirek, *Godność człowieka w perspektywie biologii*, [in:] H. Grzmił-Tylutki, Z. Mirek (red.) *Godność w perspektywie nauk*, Fides et ratio, Cracow 2012, p. 56.

⁸³ F. Fukuyama, *Koniec człowieka. Konsekwencje rewolucji biotechnologicznej*, ZNAK, Cracow 2004, p. 18.

⁸⁴ Ibidem, p. 211.

⁸⁵ Vide M. Rowlands, *Animals like us*, Verso, New York 2002, pp. 44-60.

⁸⁶ F. Fukuyama, *op. cit.*, p. 224-226.

⁸⁷ J. Habermas, *Przyszłość natury ludzkiej. Czy zmierzamy do eugeniki liberalnej?*, Scholar, Warszawa 2003, p. 217.

⁸⁸ J.D. Macready, *Hannah Arendt and the fragility of human dignity*, Lexington Books, Lanham 2018, p. 2.

⁸⁹ Ibidem, p.11

⁹⁰ Ibidem.

⁹¹ H. Arendt, *Korzenie totalitaryzmu, Tom. 1*, Wydawnictwa Akademickie i Profesjonalne, Warsaw 2008, p. 142.

⁹² Differently: M. Scheler, *Der Formalismus in der Ethik Und die materiale Wertethik*, Max Niemeyer, Halle, 1916, p. 521.

⁹³ E. Picker, *op. cit.*, p. 5-6; F.J. Mazurek, *Godność...*, pp. 17-18.

should be rejected. Dignity only constitutes the value of other goods and their existence. Like god in theology, dignity in the minds of a rational society remains the exegesis of the existence of goods and values. Therefore, it is a concept that organizes contemporary axiology. Just as the exegesis of the concept of God leads to the perversion of every religion and faith, just as dignity as a concept gives the opportunity to degenerate values. Establishing that dignity as the root cause of other axioms, while not being it alone, is violated in every case of violation of these values, but this violation is never directly directed against it. As in the case of an attack on a president, MP or other person representing the state, this behavior is directed against the state, but it does not violate its essence. By attacking the state armedly, we are not aiming at nihilizing the concept of the state as a conceptual construct, but merely acting against a specific entity. In the same way, exterminating humanity, we do not aim to destroy the idea of man, and thus his dignity. By undertaking actions that are universally recognized as violating human dignity, we never aim to violate dignity as an idea itself, but to violate the values it guarantees.

Dignity, like the concept of god, still remains only a linguistic invention aimed at justifying values established in the social conviction or in the conviction of the legislator. It is a concept widespread after the experience of World War II which, it seems, was to be a skeleton for the protection of individual rights drastically violated during armed conflicts. The law is nothing but universal acceptance of the restriction of the freedom of individuals with their consent and support. The more restrictions individuals accept, the higher the degree of social development (assuming that these considerations apply to communities that respect the principles of a democratic rule of law). The concept of dignity is therefore intended to protect man against excessive restrictions on his rights and powers. Thus, the content of dignity is the rejection of the possibility of violating the rights of the individual for the benefit of another individual or collective, even with its consent, on the other hand, this is a restriction for other individuals, which can not be exceeded. This is a kind of agreement, the content of which is the restriction of individual freedom by prohibiting violations of the freedom of other individuals. By introducing dignity to legal discourse, we agree to limit our freedom to the inviolability of the freedom of other individuals, which is justified by the fact of being a human being by the other party, while respecting the same limitation by other parties.

Dignity should be treated as a **unique characteristic of a human** person, no matter what purpose we assign to him⁹⁴. It is on this teleological ideologization that the concept is based. As H. Arendt aptly states, dignity depends on her position in the hierarchy of social life⁹⁵. It should be remembered, however, that this is an abstract concept that justifies other abstract concepts. Its existence is therefore dependent on its perception among its users. You might as well be tempted to invent or use another expression that more clearly defines the position of man. E.g. *rex mundi, deus in terra*. What ended up with the eternal exaltation of man? Giving him a sense of impunity, ruler and owner of the world? Partially the truth is M.

⁹⁴ P. Duchliński, A. Kobyliński, R. Moń, E. Podrez, *op. cit.*, p. 194.

⁹⁵ J.D. Macready, *op. cit.*, pp. 53-55.

Piechowiak treating dignity as an empty category, when we are unable to answer the question of what is human uniqueness⁹⁶. In the reasoning of the indicated author, the condition should be changed from the inability to indicate this "uniqueness" of man in the world to the lack of his social acceptance. In the absence of an internal need to comply with the standard, it will not become a law, even if it was formally. Thus, we treat dignity as the theoretical assumption of the existence of individual rights. This is a classic example of explaining phenomena (here: the existence of human rights and rights) by the abstract concept. It seems, of course, this is wrong reasoning - man is human because he has dignity - based on the absolutization of the latter, but dignity cannot be presented in any other way. Nevertheless, the humanities cannot completely give up the interpretation of concepts. In conclusion, dignity is nothing more than a specific human feature whose existence we universally accept and whose essence is the justification of the rights and powers that a human being enjoys. This concept is only a mediocre attempt to determine the existence of human rights, which is no different from ancient or medieval concepts explaining the essence of humanity. Nomen omen "noteworthy" achievement is the objectification of the concept of dignity, at least in the legal sphere. To be able to talk about its existence, objective criteria, or even anthropological criteria for defining man should be adopted.

Rights and obligations arise from the fact of dignity. In principle, rights can be defined as negative freedom, i.e. freedom from negative attitudes towards others. E.g. freedom from fear, humiliation, etc. A mirror reflection of the rights derived from dignity is the catalog of restrictions on our freedom, which corresponds to the negative freedom of other people. So dignity is only legitimate in interpersonal relationships. Hypothetically assuming a person living in a world without other people, the concept of dignity is superfluous. Moreover, the *sine qua non* condition of its existence is social acceptance. And the latter should be understood as nothing other than the ability to limit originally unlimited freedom. Dignity outside of society has no reason to exist. In relation to the presented view, it seems extremely irrational to use the concept of dignity to create language creations such as *dignity attitudes*⁹⁷ or *noble attitudes*⁹⁸ understood as social attitudes aimed at defending individual beliefs. Here again, the rooting of the concept of dignity as a moral value can be seen. And yet dignity is not a value but a human trait not related in its content to ethical values. The position of J. Mariński, presenting as an opposition to the attitude of a dignified pragmatic attitude in a way that has a pejorative tone, seems unjustified. It is not true that people who are willing to limit their rights do not respect their own ideals. A rather unworthy attitude is that the part of society defined by the author by pragmatists does not have dignity⁹⁹. Man is not able to give up his dignity, no matter what he did. Violation of the dignity of others is a manifestation of the

⁹⁶ M. Piechowiak, *Tomasza...*, pp. 220-221.

⁹⁷ J. Mariański, *op. cit.*, p. 257.

⁹⁸ M. Ossowska, *Normy moralne. Próba systematyzacji*, PIW, Warszawa 1970, p. 518 Mariański, *op. cit.*, p. 257.

⁹⁹ J. Mariański, *op. cit.*, p. 261.

lack of acceptance of the need for its existence. This does not mean, however, that these people do not have this dignity and we are to act like them. Criminal law seems to be the appropriate response to any manifestation of a violation of dignity. This does not change the final nature of this branch of law. Criminal law is always an *ultima ratio*. Thus, the concept, as unverifiable and extremely blurred and abstract in its nature, should not be used in caristics. Dignity is the quality of man from which his rights and freedoms arise. That is why every violation of these rights and freedoms always violates dignity. So there is no point in indicating it as an object of protection. Also in the case of crimes against worship should not be specified as neither generic, nor the more individual subject of protection.

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