

Registration form (basic details)

1a. Details of applicant

- Name, title(s): Düwell, Marcus, Prof. Dr.
- Male/female: male
- Address for correspondence:
Departement Wijsbegeerte, Heidelberglaan 8, 3584 CS Utrecht
- Telephone: 030 253 4399
- Cell phone: -
- Fax: 030 253 9410
- Email: m.duwell@uu.nl
- Website (optional): <http://www.phil.uu.nl/profiel/marcus.duwell/>

- Use of extension clause (see Notes): no

1b. Title of research proposal

Human Dignity as the Foundation of Human Rights?

1c. Summary of research proposal

Human dignity has a *foundational* role in the international human rights framework. The *Universal Declaration of Human Rights* (UDHR) articulates that human dignity is the reason why we must grant rights to all human beings. By adopting the UDHR nearly all countries in the world have committed themselves to respect for human dignity.

But the concept of human dignity raises numerous questions: *Who* has dignity? All and only members of the human species? *What* specific moral obligations follow from the attribution of dignity? How can human dignity provide a foundation for human rights? And *why* should we accept that human beings have dignity? Is the concept exclusively recognised by Western culture or are there reasons for expecting universal acceptability?

The core meaning of the concept, its historical roots and its philosophical justification are insufficiently understood. This generates an urgent problem because references to human dignity increasingly play a crucial role in debates on bioethics, new technologies and globalization while there is widespread suspicion that references to human dignity only have a rhetorical function or amount to dogmatic manipulation. This could endanger respect for the human rights framework as a whole.

The proposed project aims to *reconstruct* the core meaning and normative content of the concept of human dignity in current discourses. It will investigate, in dialogue with *contemporary moral philosophy*, how the justificatory function of human dignity can be conceptualized. This theoretical investigation will be conducted using case studies about *future generations*, *global justice* and *bioethics*, which are among the most challenging areas for the application of human dignity. The primary question is whether it is possible to justify the foundational role of human dignity in the human rights framework. If this proves to be impossible, we should consider abandoning the concept.

1.d Key words

Human Dignity, Human Rights, Ethics, Future Generations, Bioethics

1e. Host institution (if known)

Utrecht University, Faculty of Humanities, Department of Philosophy

1f. NWO Division (only one option possible)

Interdivisional	
ALW	
CW	
EW	
GW	X
MaGW	
ZonMw	
N	
STW	

Elucidation of the interdivisional character of the proposal (only to be filled out if you have chosen to submit your application as interdivisional, 50-100 words):

1g. NWO Domain (only one option possible)

Alfa-Gamma	X
Bèta	
Life Sciences	

Research proposal

2a. Description of the proposed research

Research Topic

Overall Aim of the Research Project

Overall, the research aims to answer the following question:

Can the concept of human dignity be elaborated in such a way that it can justify and guide the development of the human rights framework?

The project is a philosophical investigation that aims to clarify the concept of human dignity as the basis of the human rights framework. It examines whether this concept can be successfully defended and whether it provides a more solid foundation than other justifications for human rights. The very need for a foundation of the human rights will be investigated as well.

The modern concept of human dignity

The modern concept of human dignity involves the idea that *human dignity is the basis of those rights* that all human beings have just because they are human beings. This idea has a central place in the *Universal Declaration of Human Rights* (UDHR) 1948, in other human rights declarations and in several national constitutions instituted after World War II. In these documents, 'human dignity' refers to the *inherent worth of the each individual*, who is consequently endowed with *inalienable rights*. States, correspondingly, have an obligation to respect and protect human dignity and human rights.

Correlatively, this worth of the individual is of such fundamental importance that it *trumps* or *overrides* other possible practical considerations. Human dignity *cannot be weighed* or balanced; it has '*absolute value*', unlike human rights, which can be weighed against each other. Human dignity has even been held to be the ground, foundation or *basis of human rights*, in that human rights are *derived* from human dignity (e.g. UDHR art. 22, 23). A being with dignity is therefore a being with the status of a right-holder. Human dignity must, therefore, be understood as a political-legal concept as well as a moral concept, otherwise the overriding value of human dignity can hardly be explained.

By signing the UDHR nearly all nations of the world have committed themselves to principles for a political and legal order that are based on respect for human dignity. Human dignity in this sense is a central concept of the international moral, political, and legal order. Discourses about human dignity are therefore always discourses about our central political and moral self-understanding and will affect our views on political institutions and basic concepts of morality.

Questions about the concept of human dignity

But how can human dignity be the basis, the ground or the foundation of human rights? This question is pressing as the concept of human dignity is seen as fundamental to the whole UDHR. However, in the first decades of the interpretation and implementation of the UDHR, there was hardly any debate about the concept of human dignity. The concept seems to have been interpreted as a common moral and political conviction of diverse philosophical and religious traditions concerning the worth of the individual. Immediately after World War II the focus on human dignity signalled the need to protect the individual against all kinds of totalitarianism, which insulated it from critical reflection. The focus was legal-political and philosophers displayed hardly any interest in the topic.

This has changed dramatically in the last few decades. Human dignity became contested

in the first place in *bioethics* (Beyleveld/Brownsword 2001; President's Council on Bioethics 2008). The *subject of human dignity* is disputed, both with regard to the status of early human life (embryos, fetuses, newborns) as well as with regard to a 'dignity of all creatures', especially animals, (Balzer/Rippe/Schaber 2000; Baranzke 2002). Do only humans have 'human' dignity and do all humans have human dignity?

The *normative consequences of a status of dignity* are contested as well. While some claim that 'dying with dignity' implies a right to euthanasia, others come to the opposite conclusion on the basis of the same concept. They regard 'human dignity' as a reason never to kill any human being, regardless of the quality of his life. Some see enhancement technologies as violating human dignity, while others claim that respect for human dignity requires us to enhance central features of the human species (Bostrom 2005). While some legal systems see failure to respect individual choice as a paradigmatic violation of human dignity, others appeal to it to overrule individual choice. In fundamentalist religious contexts, human dignity is used to support very specific, (mainly) religiously grounded concepts of human nature (Kass 2002; Bayertz 1996).

There are reasons to ask whether one should refer to the concept at all. Some assume that it is 'useless' and can be just replaced by 'autonomy' (Maclin 2003), while others see it as ambiguous and vague (Birnbacher 1996). It has also been observed that some uses of 'human dignity' have become dislocated from the concept's foundational role in the human rights framework and are used to establish constraints on human rights that merely reflect very particular moral convictions (Beyleveld/Brownsword 2001 call that 'dignitarianism'; Whitman 2004). If peep-shows and dwarf-tossing are seen as violations of human dignity - even if there is consent of the persons involved - could human dignity be a vehicle for manipulation of the human rights framework? This problem is made more pressing by human dignity's *foundational role in the human rights framework*. How can such a contested concept have such a role and what can such a function involve? Does the combination of 'overridingness' and 'openness' constitute a fundamental threat to the human rights framework? And since the human rights framework is the main framework for international regulation, this could affect the core of moral convictions in liberal societies.

The urgency of the problem is revealed by the changes the human rights framework is currently undergoing. The framework is being broadened by introducing new human rights (e.g. rights of people with disabilities) and often complaints are made about an unrestrained 'proliferation of rights' (Wellman 1999). This could result in a very broad concept of human rights without the genuine ability of governments to enforce those rights what would raise doubts about the worth of the human rights regime. Given extension of the scope of rights a hierarchical structure of rights seems to be necessary to enable non-arbitrary weighing to be conducted. At the same time, new technologies, climate change and globalization create new challenges for human rights. Whereas after World War II human rights were primarily seen as implying normative obligations for *states*, a globalized world seems to require this focus to be extended. If under such conditions of change the foundational concept is at the same time 'vague', overriding and open for manipulation it could affect respect for the framework deeply.

The normative content of human dignity

Human dignity and other-regarding obligations

Currently, there are various debates in moral, political and legal philosophy about the history, content, and foundational role of the concept. The historical and intercultural dimension will be more extensively presented in the *Cambridge Handbook on Human Dignity*, which the applicant is currently editing with interdisciplinary colleagues (publication with Cambridge University Press in 2011). It is characteristic of the modern concept of human dignity that it does not see human dignity as the basis of duties

towards one's own perfection but the basis of rights. With regard to the history of the concept 'human dignity' this perspective is not self-evident. It was the Stoics who first extended the traditional concept of dignity in the sense of a specific rank or honour of certain human beings to the dignity of the human being *as such* (Cicero, *De Officiis* I, at 30; cf Annas 1993; Becker 1998; Nussbaum 2002). Just as a judge has a specific dignity in his role of a judge, so a human being has a specific dignity in his existence as a human being. And because of this dignity of the human being we have the obligation to behave in a manner befitting this dignity. In that sense, dignity was a *perfectionistic concept* (Hurka 1993), related to the perfection of human life. We can find this idea of *dignity as the source of duties* in various religious traditions. To what extent the concept can be found in non-Western traditions is, however, contested and to what extent this perfectionistic tradition still influences the modern concept is also a question for debate (Waldron 2009; Stoecker 2010).

Various scholars assume that the concept is a secular translation of the Christian idea of 'imago Dei' (some see this as a strength, others as a weakness). However, if we do not regard the concept of human dignity in the UDHR as a perfectionistic concept, but as the basis of rights, it is far from evident that this concept is developed on theological grounds. The history of the development of this concept is complex, and so far insufficiently studied. Special attention needs to be given in this context to discussions about 'natural rights' and natural law in early modernity (Haakonssen 1996; Tierney 1997; Tuck 1979). In any case, the idea of human dignity as the basis of human rights seems to be a modern one.

Human dignity as a basic concept: non-humiliation and non-instrumentalisation

The position of the concept of human dignity in the human rights framework is in general highly disputed. Avishai Margalit's concept of the 'decent society' has been very influential recently. Margalit does not develop a concept of human dignity in his book, but he sketches the idea of a decent society (as distinguished from a just society), as a society without basic humiliations of human beings. This concept seems to exclude all forms of extreme failure to treat human beings as one should treat them. Margalit leaves the concept of 'humiliation' underdetermined. He does not offer a criterion that helps us to determine how we should treat human beings. His approach is basically a normative statement against torture, genocide, rape and the like. A philosophical explanation for such a concept might involve regarding the dignity of human beings as grounded in their ability for self-respect. The corresponding obligation would then be to respect each human being in a way that they can live a life that is compatible with such self-respect (Schaber 2003). Related to the human rights context, human dignity understood as 'non-humiliation' would then require that we show a basic form of respect for human beings, but this kind of respect would have a much more limited scope than that given by the human rights framework.

In a similar vein, some scholars interpret human dignity as the exclusion of complete instrumentalization, according to Kant's formula that we should never treat human beings as 'means only'. But the question of what such complete instrumentalization would entail (Kant's own examples are not very convincing) and the status of this formula in Kantian ethics is contested. Kant's more basic claim that we should treat rational beings as 'ends in themselves' seems to have more extensive normative implications than the prohibition of instrumentalization alone. (Concerning the Kantian concept of dignity see Hill 1992; Korsgaard 1996; Kerstein 2002; Denis 2007; Sensen 2009).

In any case, if human dignity is interpreted as a prohibition of instrumentalization or humiliation, human dignity would protect a kind of basic worth of the individual that would be thinner than the full concept of human rights. If human dignity is understood in

such a way, then the special importance of this concept would be that certain basic rights (not being tortured or otherwise humiliated) would be given absolute protection. It would then be impossible to weigh other goods against them. It is, however, not obvious how this concept of human dignity as protection of the basic rights would have a foundational function for the human rights framework.

A more substantial concept of human dignity: human capabilities and agency

We find a much more substantial concept of human dignity in Martha Nussbaum's 'capabilities approach' (Nussbaum 2006). Nussbaum understands a 'life in dignity' as a life that allows human beings to realize their most basic functions, as described in a list of basic capabilities. This list reflects the idea of a human life that all people can accept, regardless of their diverse specific concepts of the good. The capabilities list contains a broad range of aspects of human values (from bodily integrity to the possibility of friendship and play), and covers all the aspects that the Universal Declaration of Human Rights covers as well.

While the 'capabilities approach' presents basic valuable aspects of human life in a non-hierarchical way, Alan Gewirth (1978; 1992) interprets human dignity as the normative principle that obliges us to grant each human being the generic means that he or she needs to develop as an agent. This entails rights to non-interference with individual freedom (negative rights) and to be supported in development as an agent (positive rights). Beyleveld/Brownsword (2001) have argued that this would mean regarding human dignity as the principle that obliges us to enable all human beings to lead a life of their own. It is discussed here what implications such a concept would have for people with severe mental impairments.

Nussbaum assumes that a dignified life is a life that allows us to realize all basic functions of a human life, but she does not establish a hierarchy of importance. Gewirth and Beyleveld/Brownsword maintain that human dignity entails the obligation to empower human beings to live an autonomous life in a broad sense, but they also contend that it is possible to justify a hierarchical order between the different rights. The importance of different rights corresponds to the necessity of the object of the right for the possibility of agency as such.

Human dignity as a formal concept

Some approaches offer a more *formal concept of human dignity*. Hannah Arendt (1951), who was herself very sceptical about the whole idea of human rights, proposed (in the context of refugees who fall outside of the scope of a legal order) a 'right to have rights'. Such a right would entail citizenship in a legal order that would ensure being a right-holder in a legal context. A similar proposal comes from Rainer Forst (2005) who sees 'human dignity' as the membership of human beings in a moral and political community where everybody can expect a general justification of the norms that govern the political life ('a right to justification'). The 'right to have rights' was proposed as a possible understanding for 'human dignity' as a moral right of human beings to be equal members of a legal order, which leaves the structure of the legal order and the content of the rights underdetermined. Such an approach would in fact only support the importance of the 'rule of law', and would not be helpful for determining or developing the content and the principles of the legal and moral order.

Normative content of human dignity and human rights

This short overview shows that these approaches assume that from human dignity some normative content can be derived. This normative content covers either some very fundamental human rights (e.g. Margalit) or is co-extensive with the entire set of human rights (Nussbaum/Gewirth). A more formal concept, however, would see it as a task for political deliberation to give normative content to human dignity. Given this controversy,

a central question is whether or not one should expect human dignity to have a *distinct normative content*. In the legal debate (e.g. about the German constitution) it is to some extent unclear whether human dignity is a 'principle' ("Charakter eines obersten Konstitutionsprinzips allen objektiven Rechts"/"Feature of a highest constitutive principle of all objective law" Maunz/Dürig 1999/1958, p. 6) or a kind of 'basic right'. Often both ideas are intertwined (Geddert-Steinacher 1990; Jaber 2003). For the question whether human dignity can offer a foundation of human rights this issue is highly important because it is not obvious how a 'basic right' (that excludes torture, genocide etc.) could offer any foundation for human rights in general. If human dignity instead refers to a principle, then perhaps this principle could serve as the basis for human rights in general.

The justification of human dignity as a foundational concept

We have seen that there are some fundamental questions concerning the foundational function of human dignity:

- How can we determine the normative content of human dignity? Also, what is the subject of human rights and what is the scope of human rights?
- Is the normative content of human dignity co-extensive with that of the rights or does human dignity only protect some basic human rights?
- How can we understand the idea that human dignity gives a foundation, a ground or a basis of human rights, that human rights are derived from human dignity?

This is a pressing problem as human dignity is not only interpreted as the basis of the human rights system but also regarded as being 'overriding', meaning references to human dignity can trump other practical considerations, including human rights which are derived from this concept. Human dignity is, in this perspective, not only a foundation of human rights but can also form a possible threat to the human rights framework, which makes a conceptual clarification even more important.

It may be questioned why the human rights framework needs a foundation at all and what one can expect from such a foundation. Various scholars assume that human rights are just a 'fact of life' (Rorty 1993) that we have to take into account without a possibility of further philosophical justification. But they assume that this is not such a crucial problem since we can assume a nearly global acceptance as a result of the history of the 20th Century. Some say that *if* there is a moral concept that is self-evident and in no need of further justification, then this can only be the concept of human rights.

However, there are several challenges that would underline the need for a justificatory framework of human rights. There is *first of all* the specific feature of human rights: universalism and overridingness. It is not self-evident that we are justified in assuming that human rights should be respected in the whole world and should trump all other practical considerations, especially as it is doubtful whether all worldviews are compatible with the framework.

Secondly, these features of human rights are the result of the *moral authority* of human rights. Independently of whether one sees human rights as political-legal implementations of moral rights (Gewirth 1992; Griffin 2008) or whether one sees human rights as a genuinely political phenomenon (Beitz 2009), it is always assumed that human rights have moral authority that makes the claim for universal acceptance plausible. This moral authority is, however, not self-evident. If we were to understand human rights only as the result of international political negotiations, it is quite implausible to assume that they have a specific moral authority.

Thirdly, to answer questions about how the human rights framework should be developed

and applied in a non-arbitrary way and without proliferation of rights, we need to know what the underlying ground and normative core of these rights is. To begin with, the scope of the human rights framework is debated. Do human rights include special rights of people with disabilities? To what extent do people have rights to social support? Each attempt to justify a specific scope of human rights has to refer to the normative core of the human rights framework. In addition, the human rights framework is faced by new challenges, such as climate change and new technologies. To determine how the human rights framework has to adapt in the face of these challenges, we need to consider the basis of human rights. And finally, there are debates about the internal structure and a possible hierarchy of human rights. In case of conflict, are some rights more important than others? To determine which rights are more basic than others, the basis of the human rights framework as a whole has to be considered.

Fourthly, since human rights are of an *overriding* nature, it is necessary to reflect the whole scope of our moral and political considerations to this framework. Protection of animals, protection of nature, protection of public goods and so on, can in the light of the human rights framework only be morally and legally acceptable when they are supported or at least not in contradiction with human rights.

The question of this project will therefore be what the contribution of the concept of human dignity could be for a possible justification of the universal moral authority of human rights and for all the contemporary challenges that confront the human rights framework.

Approach/Methodology

The validity of the concepts of human dignity and human rights will not be presupposed in this project. Critics have taken ambiguities in the public discourse about human dignity to prove that the concept of human dignity is a useless or meaningless concept. This project will examine whether the concept of human dignity can be of use with respect to the justification, development and application of the human rights framework. If this proves to be impossible we will have to conclude that we should abandon the concept of human dignity.

With this in mind, the project will investigate whether diverse conceptualizations of human dignity can be elaborated in a way that their foundational role for the human rights framework becomes evident. Human dignity should help us to determine the subject and the normative content of human rights in a non-arbitrary way, otherwise it is doubtful that there can be a 'derivation' of human rights from the concept of human dignity.

- (1) The project will refer to current human dignity approaches and reconstruct them under the perspective of its potential for the foundation of human rights.
- (2) The project will reconstruct *necessary presuppositions* for a meaningful concept of human dignity in its foundational function for the human rights.
- (3) This reconstruction is necessary for a philosophical examination of such theories of human dignity.
- (4) This conceptual work should show that the concept is fruitful in concrete ethical and political debates.

Subprojects

The research group will consist of the applicant, 2 PostDoc's and 3 PhD-students. These

PostDocs and PhD students must have a background in philosophy. At least one of the PostDoc's or PhD-students should have a background in law as well. Other members of the Philosophy Department in Utrecht will also be involved in the research, co-supervising PhD-students and given advice concerning specific topics of their expertise. These members include Prof. Beyleveld, whose expertise is philosophy of law, human rights law, moral philosophy, and bioethics; Prof. v.d. Brink: political philosophy; Dr. Werner: ethical theory and bioethics; and finally Prof. Verbeek: the historical roots of the concept of human dignity. The aim of conceptual clarification will be pursued in the following steps:

- The group will *reconstruct different argumentative functions* of human dignity in current ethical and legal discourses.
- Various philosophical *accounts to conceptualize and justify human dignity* will be analyzed in order to gain understanding of the function of human dignity for the human rights framework.
- Justifications of human rights with reference to human dignity will be compared with *alternative justifications of human rights*.
- It will be studied what philosophical presuppositions are *necessary presuppositions for an understanding of human dignity* in its foundational function for the human rights framework.
- Against the background of these theoretical studies, three *case studies* will be conducted on subjects of *bioethics, global justice, and future generations*. These specific case-studies have been chosen because a significant amount of literature in contemporary moral and political philosophy exists on these three topics and all three cases represent a significant challenge for the application of the concept of human dignity. At the same time the three cases confront us with important developments in the human rights framework. It is precisely in these cases that it needs to be shown that human dignity can be a guiding concept of the human rights framework.

	<i>Sub-projects</i>	<i>Topic</i>	<i>Realization</i>	<i>Output</i>
<i>Material</i>	SP 1	Argumentative Functions	Whole group	Articles
<i>Theory I: Dignity and Rights</i>	SP 2	Justification on the basis of dignity	PostDoc I	Articles
	SP 3	Alternative Justifications	PostDoc II	Articles
<i>Theory II: Analysis of Presuppositions</i>	SP 4	Presuppositions of Human Dignity	Applicant	Monograph
<i>Case Studies</i>	SP 5	Bioethics	PhD-Student I	Thesis, Articles
	SP 6	Global Justice	PhD-Student II	Thesis, Articles
	SP 7	Future Generations	PhD-Student III	Thesis, Articles

Subproject 1 (Research group): Argumentative Functions of Human Dignity

The research group will reconstruct the argumentative functions that references to human dignity have in contemporary ethical discourses together with the most important objections against these uses. Furthermore the group will systematically reconstruct the use of human dignity in different discourses about human rights. While the legal use of human dignity on the international level and concerning some constitutions is well-reconstructed (e.g. Beyleveld/Brownsword 2001; McCrudden 2008; Geddert-Steinacher 1990; Jaber 2003; Girad/Hennette-Vauchez 2005), such an analysis has not been performed in ethical and philosophical debates. This will involve analysing existing ethical literature in recent debates (20th/21th century) and comparing it with the literature in law. Special emphasis will be put on a reconstruction of the function of human dignity in the context of human rights debates. In the *Cambridge Handbook on Human Dignity* some preparatory work has already been done. The research group in concert will develop a matrix of the argumentative functions of the concept of human dignity. This material can be used as a background for further research work, but will be informative for various scientific discussions as well. In the second international workshop these argumentative functions will be compared with appeals to human dignity in older historical traditions and in non-Western debates, especially Asian and Islamic ones. A network with relevant experts exists due to the work on the *Cambridge Handbook on Human Dignity*. The reconstruction of the argumentative functions of human dignity forms the background of the systematic work and will also constitute a material collection that will lead to a separate publication. At the same time it ensures a shared view on the relevant discourses of the group.

Subproject 2 (PostDoc I): Philosophical Approaches to Human Dignity

This research group will examine the relevance of various *philosophical approaches to human dignity* for the human rights framework. The relevant approaches will include: human dignity as the right to have rights (Arendt 1951); human dignity as the prohibition of humiliation (Margalit 1996); human dignity in the context of the capabilities approach (Nussbaum 2006); human dignity as a universal extension of equal rank (Waldron 2009); human dignity as the concept of normative agency (Griffin 2008); and human dignity as the protection of the necessary conditions of agency (Gewirth 1978; 1992). Since Kant's interpretation of human dignity has had a significant influence on the modern uses of this concept, the research group will study how a foundational role of human dignity for human rights can be reconstructed along the lines of diverse interpretations of Kantian moral philosophy. The aim of this critical discussion will be to understand the different ways of conceptualizing human dignity as a foundation for the human rights framework. It will need to be asked what 'foundation' can mean in this context. Therefore, the meta-ethical debate about the justification of moral obligations has to be taken into account. One can, e.g., ask how human dignity, if it is interpreted as a moral principle, can be related to other moral principles (the discussion on pluralistic and monistic approaches will be relevant here, Düwell 2006). How can human dignity provide a foundation, or is it itself in need of a justification? Can the concept of human dignity help us to decide who holds human rights, to determine the concrete normative content of human rights, or to justify rules for their application? It will also be important to reflect on the relationship between the legal, moral and political dimension of human dignity and human rights (Beitz 2009). In this subproject a series of articles will be published.

Subproject 3 (PostDoc II): Alternative Justification of Human Rights

The second PostDoc will investigate different *justifications of human rights* in political and moral philosophy that do not refer to human dignity (Mackie 1984; Ignatieff 2001; Hart 2001; Thomson 1990; Waldron 1993). Natural rights theories and natural law theories (Haakonsson 1996), social contract theories (Gauthier 1986; Scanlon 1998), and various contemporary theories of rights will be studied. Theories that suggest that human rights are primarily political products (Habermas 1992) or theories that regard human rights as in no need for further justification either due to their pragmatic role in contemporary political discourses (Rorty 1993; Tully 1995; Raz 2007) or because they see human rights as self-evident on the basis of intuitionistic assumptions (Audi 2004), will also be considered. The main aim will be to investigate the impact that these alternative justificatory strategies have on the concept, content, subject and application of human rights. It will also be considered whether concepts of human dignity are implicitly presupposed in approaches that do not mention the notion. In cooperation with the first PostDoc different strategies for the justification of human rights can be compared. It will be investigated whether human dignity is necessary for the understanding and justification of human rights. This comparison can contribute to more founded judgments on the question whether 'human dignity' is a superfluous or redundant notion that adds nothing to the understanding and justification of human rights and whether other justificatory strategies are perhaps less vulnerable to manipulation that can give the human rights framework a more solid justification than human dignity. But it might be found that human dignity can offer a more plausible strategy for the justification and the understanding of the human rights framework. This subproject will lead to a series of articles.

Subproject 4 (Applicant): Presuppositions of Human Dignity

This subproject will investigate which *conceptual presuppositions* and *meta-ethical assumptions* are necessary for a meaningful concept of human dignity as the basis of human rights. The aim of this investigation is to distinguish between those elements of a theory of human dignity that are just elements of a contingent history of the concept and those elements that are necessary for a meaningful use of the concept as the basis of the human rights framework. Does a concept of human dignity as the basis of human rights presuppose *specific* metaphysical, religious or ontological concepts? Is the concept necessarily interrelated to a modern concept of individualism if it stresses the worth of the individual? Since the human rights concept has its origins in western tradition, it can be asked whether specific ontological or metaphysical presuppositions are needed for a meaningful use of the concept at all, and in which way those presuppositions would affect the universality of the concept. The same will have to be asked concerning the relationship to specific political institutions. The human rights framework is developed on the interface between the modern concept of nation-state and the development of international institutions. After World War II, emphasizing the worth and the rights of each individual was important to justify specific political orders of the nation state and has formed a kind of constitution for the international order as well (Morsink 1999). This order is changing dramatically in times of globalization. Does the concept of human dignity as a foundational principle of human rights only make sense in the institutional order we know at the moment? To what extent is this institutional setting necessary for the realization of respect for human dignity? Can we reconstruct the ways in which those presuppositions influence the normative content and/or the justificatory function of human dignity? Does the concept of human dignity itself provide a criterion for the normative content of human rights or is it an open concept that can be filled in diverse ways? The results of this subproject will be published in a monograph with a synthesizing ambition.

Subproject 5 (PhD-student I): Human Dignity in Bioethics

This subproject will investigate the role of human dignity in bioethics but can also offer insights for the theoretical subprojects since it enables the difficulties of application of the concept of 'human dignity' in concrete political and moral debates to be studied. At the same time, bioethics deals with situations in which our traditional concept of the human being and how it should be treated are challenged dramatically. If human dignity can provide assistance with application of the human rights framework this should become visible in this case.

There is a significant body of literature on human dignity in bioethics. Since bioethics deals with the borders of human life, it is not surprising that human dignity is challenged by the life sciences. Do human embryos have dignity? Do humans in coma or with brain-death have human dignity? Is it compatible with human dignity to enhance specific features of human beings? Are we obliged to enhance those features of the human species that make the human species special (e.g. intelligence, autonomy, self-determination)? Often 'human dignity' is understood in bioethics as a mid-level-principle such as non-maleficence and beneficence (e.g. Kemp et al. 2000) or as more or less synonymous with specific rights, such as the 'right to life' or a 'right to self-determination'. The assumption is often repeated that human dignity is either used for manipulative purposes, redundant in comparison to other principles, and thus either dangerous or superfluous (Maclin 2003). But the relationship of the concept of human dignity as used in bioethics to the human rights framework is a systematically underdeveloped topic, as in general is the relationship between bioethical theories and principles to the human rights framework. Most bioethical debates refer to human rights, but there are only a few systematic investigations of how the standard theories in bioethics relate to human rights. The PhD-project shall be a contribution to overcome this theoretical lacuna in bioethics. It will

- (1) reconstruct the use of human dignity in bioethical literature,
- (2) investigate against the background of the theoretical subprojects (1-4) the possibilities of applying a theoretically developed concept of human dignity to bioethics and
- (3) investigate the more general problems of the application of the human rights framework in bioethics.

This PhD-project can focus on some case-studies (e.g. the application of human dignity in the debates about human embryos or about human enhancement). It will be necessary to relate the more specific concept of human dignity to the more general debates on 'moral status' or about 'absolute norms', because those debates are not sharply distinguished.

Subproject 6 (PhD-student II): Human Dignity and Global Justice

Global justice is widely discussed in contemporary moral and political philosophy (e.g. Singer 1972; Arneson 2004; Chatterjee 2004; O'Neill 2004; Caney 2005; Pogge 2008) but hardly systematically as to its impact for the concept of human dignity. In this debate, however, we are faced with changes in the idea about the scope of human rights, responsible agents, and the whole context of application. It will be asked whether human rights have to be seen primarily as demands to be met by nation states or requiring a global order beyond the limitation of the nation state. Furthermore it will be asked how far human rights can justify far reaching duties towards the global poor.

Can references to human dignity help us to determine the application of human rights in the case of global justice? References to human dignity in that context have to give

explanations covering at least the following points:

- (1) It is disputed in what respect (extreme) poverty is a violation of human dignity. On the one hand, one could argue that a life without minimum provisions makes an autonomous life hardly possible, but on the other hand it is difficult to identify who is responsible for poverty (unlike in cases such as torture, genocide etc.).
- (2) It is contested whether the obligations towards the global poor are cases calling for humanitarian aid or human-rights-obligations. A 'right to freedom from poverty' is contested. Systematically this raises the question whether only negative rights (rights not to be interfered in one's freedom) can be derived from human dignity, or positive rights (rights to some sort of support) as well.
- (3) How are moral, legal and political obligations interrelated in the case of global justice? Are references to human dignity here of mere moral importance?
- (4) Global justice raises the question of the duty-bearer. If the dignity of the poor gives rise to duties, who exactly has these duties? Each individual, individual states, Non-Governmental Organisations, or the international community? How can we systematically identify the duty-bearer?

The subproject will interpret the discussion about global justice with a view to *how different theories on human dignity can provide systematic answers to those central questions of global justice*. The topic is important for human dignity since 'human dignity' seems on the one hand to be the universal concept par excellence but on the other hand it seems obvious that we can only talk meaningfully about respect for human dignity if the *subject* and the *scope* of the corresponding duties can be identified. Do references to 'human dignity' add anything to the application of the human rights framework in that context? It is likely that this case study will provide some general insights into the applicability of the concept of human dignity.

Subproject 7 (PhD-student III): Human Dignity and Future Generations

The rights of *future generations* are increasingly important in the context of environmental challenges (Feinberg 1980; Parfit 1981, 1984; Unnerstall 1999; Grosser/Mayer 200; Mayer 2008; Roberts/Wassermann 2009; Hiskes 2009), but there is little discussion about how different concepts of human dignity affect the specific rights we must grant future generations. But it is just in this debate about future generations that we need a more comprehensive concept of the justification of human rights since it is far from evident that human rights are playing a role here at all. But on the other hand, if the human rights framework (with human dignity as its basis) is of overriding importance, the protection of future generation can only be morally and legally obligatory if the responsibility for future generation does not contradict this framework. If future generations have human rights, this affects the application of the framework dramatically.

- (1) *Subject of human rights*: On the one hand it seems to be difficult to ascribe human dignity to beings that do not yet exist (Parfit 1981; 1984). On the other hand: if every human being (or every person, agent etc.) has a worth that gives him or her some rights, why should those rights be restricted to the generation that is currently alive? Do we owe to future generations no respect to live a life in dignity?
- (2) *Normative content*: However, if we extend the human rights framework to future generations, we are confronted with several difficulties. Do the rights of future persons have the same weight as the rights of contemporaries? How can we determine the rights of future generations? Would an extension of the human rights framework to future generations not lead to far reaching constraints on the liberties

of contemporaries? Presumably, freedom to move or reproductive rights would have to be interpreted differently.

- (3) *Relevance for human rights*: These questions cannot be answered simply by introducing a new right of future generations into the human rights framework. It is necessary to ask what the intergenerational perspective would mean for the interpretation of the whole human rights framework.
- (4) *Role of human dignity*: In this context the question will be how different theories of human dignity relate to this problem. Can the concept of human dignity give guidance for the interpretation of the human rights framework in an intergenerational perspective?

Coherence of the research group

The programme is planned so that the subprojects are closely intertwined. The theoretical work in SP 2-4 forms the basis for the case studies in SP 5-7. Only against the backdrop of this theoretical analysis can the case studies be examined. Conversely, the case studies will provide the theoretical parts with input from the concrete ethical debates. The common work (SP 1) on a matrix of argumentative functions of human dignity in contemporary discourses in moral philosophy, political philosophy, law and applied ethics will help to create a shared understanding of the important discourses. It is expected that this interaction between fundamental ethical theory and conceptual/philosophical analysis on the one hand and research in relation to more concrete debates in ethics and political philosophy will be very fruitful. The research will be theory-guided and at the same time oriented towards practical problems. This will motivate intense cooperation within the group and will provide the PhD-students with very stimulating sparring partners as well as support completion of the PhD-theses on time.

Literature references

- Annas, Julia: *The Morality of Happiness*. Oxford: Oxford University Press 1993.
- Arendt, Hannah: *The Origins of Totalitarianism*. New York: Harcourt Brace Jovanovich 1951.
- Arneson, Richard J.: Moral limits on the demands of beneficence? In: Chatterjee, Deen K. (Ed.): *The Ethics of Assistance. Morality and the Distant Needy*. Cambridge: Cambridge University Press 2004, 33-59
- Audi, Robert: *The Good in the Right. A Theory of Intuition and Intrinsic Value*. Princeton: Princeton University Press 2004.
- Balzer, Philip/Rippe, Klaus Peter/Schaber, Peter: Two Concepts of Dignity for Humans and Non-Human Organisms in the Context of Genetic Engineering. In: *Journal of Agricultural and Environmental Ethics* 13 (2000) 7-27.
- Baranzke, Heike: *Würde der Kreatur? Die Idee der Würde im Kontext der Bioethik*. Würzburg: Königshausen und Neumann 2002.
- Bayertz, Kurt (Ed.): *Sanctity of Life and Human Dignity*. Dordrecht: Springer 1996.
- Becker, Lawrence: *A New Stoicism*. Princeton: Princeton University Press 1998.
- Beers, Britta van: *Persoon en lichaam in het recht. Menselijke waardigheid en zelfbeschikking in het tijdperk van de medische biotechnologie*. Amsterdam: Boom Juridische uitgevers 2009.
- Beitz, Charles: *The Idea of Human Rights*. Oxford: Oxford University Press 2009.
- Beyleveld, Deryck/Brownsword, Roger: *Human Dignity in Bioethics and Biolaw*. Oxford: Oxford University Press 2001.
- Birnbaier, Dieter: Ambiguities in the Concept of Menschenwürde. In: Bayertz, Kurt (Ed.): *Sanctity of Life and Human Dignity*. Dordrecht: Springer 1996, 107-122.
- Böckenförde, Ernst-Wolfgang/Spaemann, Robert (Eds.): *Menschenrechte und Menschenwürde*. Stuttgart: Klett-Cotta 1987.
- Bostrom, Nick: In Defense of Posthuman Dignity. In: *Bioethics* 19: 3 (2005) 202-214.

- Caney, Simon: *Justice Beyond Borders. A Global Political Theory*. Oxford: Oxford University Press 2005.
- Cantor, Norman L.: *Advance Directives and the Pursuit of Death with Dignity*. Bloomington: Indiana University Press 1993.
- Chatterjee, Deen K. (Ed.): *The Ethics of Assistance. Morality and the Distant Needy*. Cambridge: Cambridge University Press 2004.
- Cicero, Marcus Tullius: *De Officiis/On Duties*, translated by M.T. Griffin. Cambridge: Cambridge University Press 1991.
- Collste, Göran: *Is Human Life Special? Religious and Philosophical Perspectives on the Principle of Human Dignity*. Bern: Peter Lang Verlag 2002.
- Dean, Richard: *The Value of Humanity in Kant's Moral Theory*. Oxford/New York: Oxford University Press 2006.
- Denis, Lara: Kant's Formula of the End in Itself: Some Recent Debates. In: *Philosophy Compass* 2 : 2 (2007) 255-257.
- Dillon, Robin S. (Ed.): *Dignity, Character, and Self-Respect*. New York/London: Routledge 1995.
- Donnelly, Jack: Human Rights and Human Dignity. An Analytic Critique of Non-Western Conceptions of Human Rights. In: Snyder, E.F./Sathirathai, S. (Eds.): *Third World Attitudes Toward International Law*. Dordrecht: Springer 1987, 341-357.
- Donnelly, Jack: *Universal Human Rights in Theory and Practice*. Ithaca: Cornell University Press, 2nd ed. 2002.
- Düwell, Marcus: One Principle or Many. In: Rehmann-Sutter, Christoph/Düwell, Marcus/Mieth, Dietmar (Eds.): *Bioethics in Cultural Contexts. Interdisciplinary Approaches*. Dordrecht: Springer 2006, 93-108.
- Dworkin, Ronald: *Taking Rights Seriously*. Cambridge: Harvard University Press 1977.
- Egonsson, Dan: *Dimensions of Dignity: The Moral Importance of Being Human*. Dordrecht: Springer 1998.
- Feinberg, Joel: The Rights of Animals and Unborn Generations. In: Feinberg, Joel: *Rights, Justice, and the Bounds of Liberty. Essays in Social Philosophy*. Princeton: Princeton University Press 1980, 159-84.
- Forst, Rainer: Die Würde des Menschen und das Recht auf Rechtfertigung. In: *Deutsche Zeitschrift für Philosophie* 53 : 4 (2005) 589-596.
- Gauthier, David: *Morals by Agreement*. Oxford: Oxford University Press 1986.
- Geddert-Steinacher, Tatjana: *Menschenwürde als Verfassungsbegriff: Aspekte der Rechtsprechung des Bundesverfassungsgerichts zu Art. 1 Abs. 1 Grundgesetz*. Berlin: Duncker & Humblot 1990.
- Gewirth, Alan: *Reason and Morality*. Chicago: Chicago University Press 1978.
- Gewirth, Alan: Human Dignity as Basis of Rights. In: Meyer, Michael J./Parent, William A. (Eds.): *The Constitution of Rights. Human Dignity and American Values*. Ithaca/London: Cornell University Press 1992, 10-28.
- Gewirth, Alan: *Community of Rights*. Chicago: Chicago University Press 1996.
- Girard, Charlotte/Hennette-Vauchez, Stéphanie (Eds.): *La dignité de la personne humaine. Recherche sur un processus de juridicisation*. Paris: Droit et justice 2005.
- Griffin, James: *On Human Rights*. Oxford: Oxford University Press 2008.
- Grosser, Axel/Meyer, Lukas (Eds.): *Intergenerational Justice*. Oxford: Oxford University Press 2009.
- Haakonssen, Knud: *Natural Law and Moral Philosophy. From Grotius to the Scottish Enlightenment*. Cambridge: Cambridge University Press 1996.
- Habermas, Jürgen: Faktizität und Geltung. Beiträge zur Diskurstheorie des Rechts und des demokratischen Rechtsstaats. Frankfurt/Main: Suhrkamp 1992.
- Habermas, Jürgen: *Die Zukunft der menschlichen Natur. Auf dem Weg zu einer liberalen Eugenik*. Frankfurt/Main: Suhrkamp 2001.
- Habermas, Jürgen: The Concept of Human Dignity and The Realistic Utopia of Human Rights. In: *Metaphilosophy* 41 : 4 (2010) 464-480.
- Harris, George W., *Dignity and Vulnerability. Strength and Quality of Character*. Berkeley/Los Angeles/London: The University of California Press 1997.
- Hart, Herbert L.A.: Are There Any Natural Rights? In: Hayden, Patrick (Ed.): *The Philosophy of Human Rights*. St. Paul: Paragon House 2001, 151-162.
- Heeger, Robert: Genetic Engineering and the Dignity of Creatures. In: *Journal of Agricultural and Environmental Ethics* 13 (2000) 43-51.
- Hill, Thomas E., Jr.: *Dignity and Practical Reason in Kant's Ethical Theory*. Ithaca/London: Cornell University Press 1992.

- Hiskes, Richard P.: *The Human Right to a Green Future*. Environmental Rights and Intergenerational Justice. Cambridge: Cambridge University Press 2009.
- Hurka, Thomas: *Perfectionism*. Oxford: Oxford University Press 1993.
- Ignatieff, Michael: *Human Rights as Politics and Idolatry*, ed. by Amy Gutman, Princeton: Princeton University Press 2001.
- Jaber, Dunja: *Über den mehrfachen Sinn von Menschenwürde-Garantien. Mit besonderer Berücksichtigung von Art. 1 Abs. 1 Grundgesetz*. Frankfurt/Main: Ontos-Verlag 2003.
- Kamali, Mohammad Hashim: *The Dignity of Man: An Islamic Perspective*. Cambridge: Islamic Texts Society 2002.
- Kant, Immanuel: *Grundlegung zur Metaphysik der Sitten* (1785). In: Kant, Immanuel: *Werkausgabe*, ed. by Wilhelm Weischedel. Frankfurt/Main: Suhrkamp 1986, VII, 11-102.
- Kass, Leon R.: *Death with dignity and the sanctity of life*. In: Kogan, Barry S. (Ed.), *A Time to be Born and a Time to Die: The Ethics of Choice*. Hawthorne/NY: Aldine-De Gruyter 1991.
- Kass, Leon R.: *Life, Liberty and the Defense of Dignity: The Challenge for Bioethics*. San Francisco: Encounter Books 2002.
- Kemp, Peter/Rendtorff, Jacob/Johansen, Niels Mattson (Eds.): *Bioethics and Biolaw, Vol. II: Four Ethical Principles*. Copenhagen: Rhodos International Science and Art Publishers and Centre for Ethics and Law 2000.
- Kerstein, Samuel J.: *Kant's Search for the Supreme Principle of Morality*. Cambridge: Cambridge University Press 2002.
- Korsgaard, Christine M.: *Creating the Kingdom of Ends*. Cambridge: Cambridge University Press 1996.
- Mackie, John: *Can there Be a Rights-Based Moral Theory?* In: Waldron, Jeremy (Ed.): *Theories of Rights*. Oxford: Oxford University Press 1994, 168-181.
- Maclin, Ruth: *Dignity as a Useless Concept*. In: *British Medical Journal* 327 (2003) 1419-1420.
- Malpas, Jeff/Lickiss, Norelle (Eds.): *Perspectives on Human Dignity. A Conversation*. Dordrecht: Springer 2007.
- Margalit, Avishai: *The Decent Society*. Cambridge: Harvard University Press 1996.
- Maunz, Theodor/Dürig, Günter: *Grundgesetzkommentar*. München: C.H. Beck Verlag 1999/1958.
- McCrudden, Christopher: *Human Dignity and Judicial Interpretation of Human Rights*. In: *The European Journal of International Law* 19:4 (2008) 655-724.
- Menke, Christoph/Pollmann, Arnd: *Philosophie der Menschenrechte zur Einführung*. Hamburg: Junius Verlag 2007.
- Meyer, Lukas: *Intergenerational Justice*. In: *The Stanford Encyclopedia of Philosophy* (Fall 2008 Edition), ed. Edward N. Zalta.
- Meyer, Michael J.: *Dignity, Rights, and Self-Control*. In: *Ethics* 99 (1989) 520-534.
- Morsink, Johannes: *The Universal Declaration of Human Rights: Origins, Drafting & Intent*. Philadelphia: University of Philadelphia Press 1999.
- Mutua, Makau: *Human Rights. A Political and Cultural Critique*. Philadelphia: University of Pennsylvania Press 2002.
- Nussbaum, Martha: *The Worth of Human Dignity: Two Tensions in Stoic Cosmopolitanism*. In: Clark, Gillian/Rajak, Tessa (Eds.): *Philosophy and Power in the Graeco-Roman World: Essays in Honour of Miriam Griffin*. Oxford: Oxford University Press 2002, 31-49.
- Nussbaum, Martha C.: *Frontiers of Justice. Disability, Nationality, Species Membership*. Cambridge: The Belknap Press of Harvard University Press 2006.
- O'Neill, Onora: *Global Justice: Whose Obligation*. In: Chatterjee, Deen K. (Ed.): *The Ethics of Assistance. Morality and the Distant Needy*. Cambridge: Cambridge University Press 2004, 260-288.
- Parfit, Derek: *Future Generations, Further Problems*. In: *Philosophy and Public Affairs* 11 (1981) 113-172.
- Parfit, Derek: *Reasons and Persons*. Oxford: Oxford University Press 1984.
- Pico della Mirandola, Giovanini: *Oration on the Dignity of Man* (1486), translated by Charles Glenn Wallis. Indianapolis: The Bobbs-Merrill Company 1965.
- Pogge, Thomas: *World Poverty and Human Rights*. Cambridge/Malden: Polity Press 2nd ed. 2008.
- President's Council on Bioethics: *Human Cloning and Human Dignity: An Ethical Inquiry*. Washington, D.C. 2002.
- President's Council on Bioethics: *Being Human: Readings from the President's Council on Bioethics*, Washington D. C. 2003.
- President's Council on Bioethics: *Human Dignity and Bioethics*. Washington D.C. 2008.

- Pufendorf Samuel: *On the Duty of Man and Citizen*, ed. by James Tully. Cambridge: Cambridge University Press 1991.
- Raz, Joseph: Human Rights Without Foundations. In: *University of Oxford Faculty of Law Legal Studies Research Paper Series*. Working Paper No. 14/2007.
- Robert, Melinda/Wassermann, David (Eds.): *Harming Future Persons: Ethics, Genetics and the Nonidentity Problem*. Dordrecht: Springer 2009.
- Rorty, Richard: Human Rights, Rationality, and Sentimentality. In: Shute, Stephen/Hurley, Susan (Eds.). *On Human Rights: The Oxford Amnesty Lectures 1993*. New York: Basic Books 1993, 112-134.
- Scanlon, Thomas: *What We Owe to Each Other*. Cambridge/London: Harvard University Press 1998.
- Schaber, Peter: Menschenwürde als Recht, nicht erniedrigt zu werden. In: Stoecker, Ralf (Ed.): *Menschenwürde. Annäherungen an einen Begriff*. Vienna: öbvEThtp 2003, 119-132.
- Schaber, Peter: *Instrumentalisierung und Würde*. Paderborn: Mentis 2010.
- Sensen, Oliver: Kant's Conception of Human Dignity. In: *Kant Studien* 100 (2009) 309-331.
- Shue, Henry: *Basic Rights. Subsistence, Affluence, and U.S. Foreign Policy*. Princeton/New Jersey: Princeton University Press 2nd. Ed. 1980.
- Singer, Peter: Famine, Affluence, and Morality. In: *Philosophy and Public Affairs* 1 (1972) 229-243.
- Skinner, Burrhus F.: *Beyond Freedom and Dignity*. Indianapolis/Cambridge: Hackett Publishing Company 1971.
- Stoecker, Ralf: Die Pflicht dem Menschen seine Würde zu erhalten. In: *Zeitschrift für Menschenrechte* 1 (2010) 98-116.
- Soulen, R. Kendall/Woodhead, Linda (Eds.): *God and Human Dignity*, Grand Rapids/Cambridge: William B. Eerdmans Publishing Company 2006.
- Thomson, Judith Jarvis: *The Realm of Rights*. Cambridge/London: Harvard University Press 1990.
- Tierney, Brian: *The Idea of Natural Rights*. Grand Rapids/Cambridge: William B. Eerdmans Publishing Company 1997.
- Trinkaus, Charles: *In Our Image and Likeness. Humanity and Divinity in Italian Humanist Thought*. 2 Volumes. Chicago: Chicago University Press 1970.
- Tuck, Richard: *Natural Rights Theories. Their Origin and Development*. Cambridge: Cambridge University Press 1979.
- Tully, James: *Strange Multiplicity. Constitutionalism in the Age of Diversity*. Cambridge: Cambridge University Press 1995.
- Unnerstall, Herwig: *Rechte zukünftiger Generationen*. Würzburg: Königshausen und Neumann 1999.
- Vögele, Wolfgang: *Menschenwürde zwischen Recht und Theologie*. Gütersloh: Gütersloher Verlagshaus 2000.
- Waldron, Jeremy: *Liberal Rights. Collected Papers 1981-1991*. Cambridge: Cambridge University Press 1993.
- Waldron, Jeremy: *Dignity, Rank and Rights. Tanner Lecture on Human Values* 2009. http://www.law.nyu.edu/news/WALDRON_TANNER_LECTURES.
- Wellman, Carl, *The Proliferation of Rights. Moral Progress or Empty Rhetoric?* Boulder: Westview Press 1999.
- Werner, Micha H.: Menschenwürde in der bioethischen Debatte: Eine Diskurstopologie. In: Kettner, Matthias (Ed.): *Biomedizin und Menschenwürde*. Frankfurt/Main: Suhrkamp 2004, 191-220.
- Whitman, James Q.: The Two Western Cultures of Privacy: Dignity versus Liberty. In: *The Yale Law Journal*, 113 : 6 (2004) 1151-1221.