

Human Dignity

Two basic underlying principles of human rights

- Freedom (liberty)
- Dignity
- These principles are complementary (or it may be argued that dignity is a more complete one), but there may be conflicts

The Philosophical Background of Human Dignity

- Kant – Human Dignity: *„Act in such a way that you treat humanity, whether in your own person or in the person of another, always at the same time as an end and never simply as a means.“* (anti-utilitarian)
- Human Dignity is connected to the nature of man and is unseparable

Barak's Concept

- Four aspects of human dignity
- 1) Recognition as human being (equality)
- 2) Freedom of will (self-determination)
- 3) Welfare
- 4) Ends, not means (object theory)

The Nature of Dignity

- Right? (Too complex)
- Principle
- Value
- Combination – Underlying principle which provides a basis for more specific human rights (See ICCPR which begins its preamble with the acknowledgment that the rights contained in the covenant “derive from the inherent dignity of the human person.”)

The Aspects of Human Dignity

- Relatively vague principle (a lot of criticism)
- Connection to: Right to life, Prohibition of Torture, Right to privacy, bodily integrity and self-determination, Prohibition of Discrimination, (Social Rights?)

Protecting dignity against the will of individual?

- Human Dignity vs. Contractual Freedom
- Peep Show Case, Dwarf Tossing, Prostitution, Laser Game,
- What qualifies as „Will“
- Is there an objective standard of human dignity?

Prohibition of Torture

- Content – Art. 3 ECHR, 7/2 Czech Charter etc.
- Specifics: Absolute nature? (v. qualified)
- Discuss Gafgen v. Germany
- Torture, Inhuman treatment etc...

Right to Privacy and Bodily Self-Determination

- Transsexual Case
- Physical Integrity
- Law and Medicine

Human Dignity in Private Law

- Mephisto Case
- Generally: FoE x Dignity
- Freedom of Contract v. Dignity