

# Human Dignity

# Basic underlying principles of human rights

- Freedom (liberty)
- Equality
- Dignity
- These principles are **complementary** (but it may be argued that dignity is the most complex one), but there may be **conflicts** between them or their individual aspects.

# 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 a human being** and is unseparable.
- It has been described by many as **„a right to rights“**, **„article of faith of a civil religion“** etc.

## Where do we find it?

- UDHR Preamble: *„Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world...“, „faith in fundamental human rights, in the dignity and worth of the human person...“*
- UDHR Art. 1: *„All human beings are born free and equal in dignity and rights.“*
- Preamble of the ICCPR (the ICCPR begins its preamble with the acknowledgment that the rights contained in the covenant *“derive from the inherent dignity of the human person.”*)
- **NOT in the ECHR. Why?**

# The Nature of Dignity

- Right?
- Principle?
- Value?
- Perhaps a combination of those? *An underlying principle which provides a basis for more specific human rights. It might be considered a „**compressed substance of human rights**“.*

# Barak's Concept

## Four aspects of human dignity

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

# The Aspects of Human Dignity

- A relatively vague concept
- Connected to:
  - Right to life,
  - Prohibition of Torture,
  - Right to privacy, bodily integrity and self-determination,
  - Prohibition of Discrimination,
  - (Social Rights?)
  - Etc.

# Subjective or objective? Protecting dignity against the will of an individual?

- Human dignity vs. contractual freedom
- Peep show case, Dwarf tossing, Prostitution, Laser game,
- What qualifies as „(free) will“?
- Is there an objective standard of human dignity?



# Prohibition of Torture

- Content – Art. 3 ECHR, 1984 Convention against torture
- Specifics: Absolute nature?
- Case to discuss: *Gafgen v. Germany*