HUMAN DIGNITY–BASIS OF HUMAN RIGHTS

Eckart Klein

Rüdiger Wolfrum, for many years an outstanding member of the Committee on the Elimination of Racial Discrimination, has always shown a specific interest in the theoretical and practical problems of the effective protection of human rights on the universal and regional levels. Thus I hope that the following reflections on human dignity as the basis of human rights may be a welcome contribution to this liber amicorum.

A. Approach

International human rights documents or treaties do not formulate a right to human dignity as they do, e.g., concerning the right to life, the right to liberty and security, the right to freedom of expression or the right not to be discriminated against. However, all the documents and conventions refer to human dignity in various ways, be it in their preambles or operative parts.

I mention only two instruments. The first paragraph of the Preamble to the Universal Declaration of Human Rights speaks of “the inherent dignity of all members of the human family”; another paragraph, repeating the Preamble to the United Nations Charter, reaffirms “faith in the dignity and worth of the human person”; and Article 1 of the Declaration states that “all human beings are born free and equal in dignity and rights”.1 The Preambles to both Covenants, too, express the States parties’ recognition of the inherent dignity of all members of the human family by adding that the equal and inalienable rights of those members “derive from the inherent dignity of the human person”.2 There are many other examples of the inclusion of the term of human

---


2 The same phrase is repeated in Article 10, para. 1, of the International Covenant on Civil and Political Rights.
dignity or dignity of the human person in the texts of international conventions.³

The evident relationship established by these documents and treaties between human dignity and human rights is quite telling, but needs further clarification. However, what we may immediately learn from a first reading of the relevant texts is twofold. It reveals not only the reason States have decided to protect human rights on the international plane at all; it likewise indicates the reason human rights have been connected with human dignity. Two world wars which have “brought untold sorrow to mankind” (UN Charter Preamble) and “barbarous acts”, like the holocaust, “which have outraged the conscience of mankind” (Preamble Universal Declaration) have prompted the conviction that respect for human rights born out of the recognition of human dignity may help to avoid a recurrence of such terrible events.⁴

What we, secondly, can also learn from the plain reading of the texts is that all the references to human dignity do not offer any definition of the term, do not explain the meaning and the content of human dignity and the implications it may have. We also learn nothing about the possible sources of human dignity: Religion (man as image of God), stoic philosophy, the nature of man, ethics, morals or the rationalism of the enlightenment era⁵—the texts remain silent. Human dignity as referred to in our documents and conventions is not deduced from any specific religion, philosophy or anthropology, but is open for all possible deductions to the extent that they result in the recognition of the inherent dignity of the human being.⁶ International human rights law does not want to become and is not a priori dependent on a certain line of reasoning. It is only the result that counts. For international law it is sufficient that human dignity as a particular cultural achievement

---

³ E.g. Preamble to the International Convention on the Elimination of All Forms of Racial Discrimination of 1965, para.1: “principles of the dignity and equality inherent in all human beings”.

⁴ It is empirical experience that laid the ground for international human rights protection. For the difficulties arising from such a perspective see K. Bayertz, Menschenwürde, in: H. J. Sandkühler (ed.), Enzyklopädie Philosophie, Vol. 2, 1553, at 1555 (2010).
