



Syllabus

Human Dignity in Comparative Perspective - 62471

Last update 20-07-2017

HU Credits: 2

Responsible Department: law

Academic year: 0

Semester: 1st Semester

Teaching Languages: English

Campus: Mt. Scopus

Course/Module Coordinator: Dr. Doron Shultziner

Coordinator Email: doron.shultziner@mail.huji.ac.il

Coordinator Office Hours: Wednesday, 12:00-13:00

Teaching Staff:
Dr. Doron Shultziner

Course/Module description:

This course explores the meanings and functions of "human dignity" in legal

parlance and in legal instruments through comparative perspective. We begin the course by identifying the intellectual origins of human dignity and mapping its meanings in philosophical and legal discourses. The connection between human dignity and human rights will also be discussed. We will then explore developments in the usages of human dignity that began in the 20th century, as manifested in national and international legal instruments, as well as through a cross-cultural perspective. A legal-psychological approach to human dignity will be offered and explored in relation to different rights and across legal systems. A special emphasis will also be given to the functions and meanings of human dignity in Israel: the particular circumstances that led to the enactment and interpretation of human dignity as a discrete human right in Israel and its implications. We will also discuss the meanings of dignity in relation to security institutions and medical ethics.

Course/Module aims:

To understand the different functions and meanings of human dignity in legal and political parlance.

To be able to analyze the uses of the term in legal rulings.

Learning outcomes - On successful completion of this module, students should be able to:

To critically analyze uses of the term in different legal systems.

To observe various uses of the term in legal systems.

Attendance requirements(%):

100

Teaching arrangement and method of instruction: Frontal lectures and class discussions.

Course/Module Content:

1. Historical origins; Philosophic and linguistic approaches; Human dignity in national constitutions

2. A comparative legal-psychological approach to human dignity; Therapeutic Jurisprudence.

3. Human dignity in Israel: constitutional, political, and interpretative issues.

4. Human dignity in medical ethics.

5. Human dignity in security institutions.

Required Reading:

Meeting 1 (classes 1-2) 25.10.2012: Historical origins; Philosophic and linguistic

approaches; Human dignity in national constitutions

Class Reading:

McCrudden, Christopher. 2008. *Human Dignity and Judicial Interpretation of Human Rights*. *European Journal of International Law*, 19(4). Pages 656-663.

Shultziner, Doron. 2003. *Human Dignity – Functions and Meanings*. *Global Jurist Topics*, 3(3), Pages 1-18.

Additional recommended reading:

Arieli, Yehoshua. 2002. *On the Necessary and Sufficient Conditions for the Emergence of the Dignity of Man and His Rights*. In *The Concept of Human Dignity in Human Rights Discourse*, edited by D. Kretzmer and E. Klein. Hague: Kluwer Law International.

Schachter, Oscar. 1983. *Human Dignity as a Normative Concept*. *American Journal of International Law* 77(4): 848-854.

Cohn, H. Haim. 1983. *On the Meaning of Human Dignity*. *Israel YearBook on Human Rights* 13: 226-251.

Spiegelberg, Herbert. 1970. *Human Dignity: A Challenge to Contemporary Philosophy*. In *Human Dignity: This Century and the Next*, edited by R. Gotesky and E. Laszlo. New York: Gordon and Breach.

Meeting 2 (classes 3-4) 1.11.2012: *Cross-cultural conceptions of human dignity; Human dignity in international instruments; Human dignity in legal interpretation*
Class Reading:

McCrudden, Christopher. 2008. *Human Dignity and Judicial Interpretation of Human Rights*. *European Journal of International Law*, 19(4). Pages 680-694, 697-724.

Howard, Rhoda E. 1992. *Dignity, Community, and Human Rights*. In A. A. An-Na'im (Ed.), *Human Rights in Cross-Cultural Perspective: A Request for Consensus*. Philadelphia: University of Pennsylvania Press. Pages 81-85, 90-91, 94-95.

Additional recommended reading:

Heath, J. Benton. 2012. *Mapping Expansive Uses of Dignity in International Criminal Law*. In Silja Vöneky, ed., *The Ethicalization of Law*. Max Planck Research Group.

Kamir, Orit. 2002. *Honor and Dignity Cultures: The Case of Kavod and Kvod Ha-Adam in Israeli Society and Law*. In *The Concept of Human Dignity in Human Rights Discourse*, edited by D. Kretzmer and E. Klein. Hague: Kluwer Law International. Pages 238-245.

Dicke, Klaus. 2002. *The Founding Function of Human Dignity in the Universal Declaration of Human Rights*. In *The Concept of Human Dignity in Human Rights Discourse*, edited by D. Kretzmer and E. Klein. Hague: Kluwer Law International. Pages 114-119.

Abdul, A. S. 1979. *Human Rights in Islamic Perspectives*. In A. Pollis & P. Schwab (Eds.), *Human rights: cultural and ideological perspectives*. New York: Praeger.

Donnelly, Jack. 1982. *Human Rights and Human Dignity: An Analytic Critique of Non-Western Conceptions of Human Rights*. *American Political Science Review* 76(2): 303-16.

Howard, Rhoda and Jack Donnelly. 1986. *Human Dignity, Human Rights and Political Regimes*. *American Political Science Review* 80(3), September.

Zhang, Qianfan F. 2007. *Human Dignity in Classical Chinese Philosophy: Reinterpreting Mohism*. *Journal of Chinese Philosophy*, 34(2), 239-255.

Pitt-Rivers, Julian. 1966. *Honour and Social Status*. In *Honour and Shame: The Values of Mediterranean Society*, ed. J. G. P©ristiany. Chicago: University of Chicago Press.

Meeting 3 (classes 5-6) 8.11.2012: *A comparative legal-psychological approach to human dignity; Therapeutic Jurisprudence*

Class Reading:

Shultziner, Doron and Rabinovici, Itai. 2012. *Human Dignity, Self-Worth, and Humiliation: A Comparative Legal-Psychological Approach*. *Psychology, Public Policy and Law* 18(1): 105-143.

Additional recommended reading:

Wexler, D. B. 2008. *Two Decades of Therapeutic Jurisprudence*. *Touro Law Review* 24: 17-29.

Statman, Daniel. 2002. *Humiliation, Dignity and Self-Respect*. In *The Concept of Human Dignity in Human Rights Discourse*, edited by D. Kretzmer and E. Klein. Hague: Kluwer Law International.

Bay, Christian. 1982. *Self-Respect as a Human Right: Thoughts on the Dialectics of Wants and Needs in the Struggle for Human Community Source*. *Human Rights Quarterly* 4(1): 53-75.

Meeting 4 (classes 7-8) 15.11.2012: *Human dignity in Israel: constitutional, political, and interpretative issues*

Class Reading:

Kretzmer, David. 2002. *Human Dignity in Israeli Jurisprudence*. In *The Concept of Human Dignity in Human Rights Discourse*, edited by D. Kretzmer and E. Klein. Hague: Kluwer Law International. Pages 161-175.

Shultziner, Doron. (2006). *A Jewish Conception of Human Dignity: Philosophy and its Ethical Implications for Israeli Supreme Court Decisions*. *Journal of Religious Ethics*, 34(4): 672-680.

Brest, Paul. 1980. "Accommodation of the Majoritarianism and Rights of Human Dignity." *Southern California Law Review* 53: Pages 761-764.

Weisstub, David. 2002. *Honor, Dignity and the Framing of Multiculturalist Values*. In *The Concept of Human Dignity in Human Rights Discourse*, edited by D. Kretzmer and E. Klein. Hague: Kluwer Law International. Pages 273-279.

Meeting 5 (classes 10-11) 22.11.2012: *Human dignity in medical ethics; guest speaker Prof. Yechiel Bar-Ilan*

Annas, G. J., Andrews, L. B., & Isasi, R. M. 2002. *Protecting the endangered human: toward an international treaty prohibiting cloning and inheritable alterations*.

American Journal of Law & Medicine, 28(2-3): 151-178.

Macklin, Ruth. 2003. *Dignity is a useless concept*. *British Medical Journal* 327(7429): 1419-1420.

Pinker, Steven. "The Stupidity of Dignity: Conservative bioethics' latest, most dangerous ploy" *New Republic* 28 May 2008. <http://www.tnr.com/article/the-stupidity-dignity>

Law on Human Cloning

Further recommended readings:

Luban, D. 2004. *A Theory of Crimes Against Humanity*. *Yale Journal of International Law*, 29: Pages 109-116.

Meeting 6 (classes 11-12) 29.11.2012: *Human dignity in security institutions; Students' presentations*

Class Reading:

Singer, Richard G. 1972. *Privacy, Autonomy, and Dignity in the Prison: A Preliminary Inquiry Concerning Constitutional Aspects of the Degradation Process in our Prisons*. *Buffalo Law Review* 21, Pages 669-671, 684-685, 693-710.

Additional Reading Material:

Further suggested reading:

Blackstone, William. 1970. "Human Rights and Human Dignity." in *Human Dignity: This Century and the Next*, edited by R. Gotesky and E. Laszlo. New York: Gordon and Breach.

Chaskalson, Arthur. 2002. "Human Dignity as a Constitutional Value." in *The Concept of Human Dignity in Human Rights Discourse*, edited by D. Kretzmer and E. Klein. Hague: Kluwer Law International.

Donnelly, Jack. 2009. "Human Dignity and Human Rights." *Protecting Dignity: An Agenda for Human Rights, The Swiss Initiative to Commemorate the 60th Anniversary of the Universal Declaration of Human Rights*.

Fletcher, G.P. 1984. "Human Dignity as a Constitutional Value." *University of Western Ontario Law Review* 22.

Frowein, Jochen. 2002. "Human Dignity in International Law." in *The Concept of Human Dignity in Human Rights Discourse*, edited by D. Kretzmer and E. Klein. Hague: Kluwer Law International.

Gewirth, Alan. 1992. "Human Dignity as the Basis of Rights." in *The Constitution of Rights: Human Dignity and American Values*, edited by M. J. Meyer and W. A. Parent.

Ithaca: Cornell University Press.

Henkin, Louis. 1992. "Human Dignity and Constitutional Rights." in *The Constitution of Rights: Human Dignity and American Values*, edited by M. J. Meyer and W. A. Parent. Ithaca: Cornell University Press.

Henkin, Louis. 1999. "Human Rights: Religious or Enlightened?" in *Religion and Human Rights*, edited by C. Gustafson and P. H. Juviler. Armonk, N.Y.: M. E. Sharpe.

Herman, Gilbert. 1989. "Moral Relativism as a Foundation for Natural Rights." in *The Philosophy of Human Rights*, edited by M. Winston. Belmont: Wadsworth Publishing Company.

Iglesias, Teresa. 2001. "Bedrock Truths and the Dignity of the Individual." *Logos*.

Malpas, Jeff and Norelle Lickiss, (eds.). 2007. *Perspectives on Human Dignity: A Conversation*. Springer.

Meyer, Michael J. 1989. "Dignity, Rights, and Self-Control." *Ethics* 99.

Meyer, Michael J. 2002. "Dignity as a Modern Virtue." in *The Concept of Human Dignity in Human Rights Discourse*, edited by D. Kretzmer and E. Klein. Hague: Kluwer Law International.

Munster, Ralf. 1970. "A Critique of Blackstone's Human Rights and Human Dignity." In *Human Dignity: This Century and the Next*, edited by R. Gotesky and E. Laszlo. New York: Gordon and Breach.

Novak, Michael. 1999. "Human Dignity, Human Rights." *First Things* 97, November.

Parent, William A. 1992. "Constitutional Values and Human Dignity." In *The Constitution of Rights: Human Dignity and American Values*, edited by M. J. Meyer and W. A. Parent. Ithaca: Cornell University Press.

Rotenstreich, Nathan. 1983. *Man and His Dignity*. Jerusalem: Magnes Press.

Strack, Christian. 2002. "The Religious and Philosophical Background of Human Dignity and Its Place in Modern Constitutions." In *The Concept of Human Dignity in Human Rights Discourse*, edited by D. Kretzmer and E. Klein. Hague: Kluwer Law International.

Taylor, Charles. 1992. "The Politics of Recognition." In *Multiculturalism and "the Politics of Recognition"*: An Essay, edited by A. Gutmann. Princeton, N.J.: Princeton University Press.

Ullrich, Dierk. 2003. "Concurring Visions: Human Dignity in the Canadian Charter of

Rights and Freedoms and the Basic Law of the Federal Republic of Germany. □
Global Jurist Frontiers 3(1).

Weisstub, David. 2002. □Honor, Dignity and the Framing of Multiculturalist Values.□
In The Concept of Human Dignity in Human Rights Discourse, edited by D. Kretzmer
and E. Klein. Hague: Kluwer Law International.

Course/Module evaluation:

End of year written/oral examination 100 %

Presentation 0 %

Participation in Tutorials 0 %

Project work 0 %

Assignments 0 %

Reports 0 %

Research project 0 %

Quizzes 0 %

Other 0 %

Additional information:

Attendance is obligatory with an emphasis on active and useful participation. The lecturer may give bonus points for answering guiding questions along the course.