

## Chapitre 4

# HUMAN DIGNITY: INTRINSIC OR RELATIVE VALUE?

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Is human dignity an intrinsic value, or a relative value particularly associated with the notion of “quality of life”? In contemporary bioethics, the term “dignity” has become a kind of slogan. All major trends in public opinion refer to it, sometimes, paradoxically, in order to justify strongly opposed positions. For example, in France, the “Association for the Right to Die with Dignity”<sup>1</sup> uses dignity to demand the legalization of euthanasia, whereas the promoters of palliative care support the concept specifically to reject this legalization.

How should dignity be understood? Some relate it directly to that quality of life evaluated by everybody with their own autonomous judgment: therefore it can be earned or lost, given or removed. For others, such as Macklin<sup>2</sup>, the

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<sup>1</sup> Equivalent to *Exit* in Switzerland.

<sup>2</sup> Ruth Macklin, “Dignity is a Useless Concept”, *British Medical Journal*, 2003, vol. 327, p. 1419-1420.

concept is already included in the notion of respect for the autonomy of the person, and is therefore redundant. Finally, for some others, including me<sup>3</sup>, dignity means above all the intrinsic and inalienable value of every human being. Therefore, it is an essential safeguard against instrumentalisation of, and discrimination against, human beings, as well as a source of responsibility.

After offering some historical perspectives, this contribution considers the nature of dignity evaluated with reference to quality of life, before suggesting an inversion of the proposition: the quality of life as a requirement of human dignity.

## SOME HISTORICAL PERSPECTIVES

In the past, dignity has not been a matter of major interest, not even among Christian writers. Nevertheless, various concepts related to dignity that were developed in previous centuries still remain topical. In the 20<sup>th</sup> Century, two major factors have modified them: the Shoah, and the increasing technological powers over living beings, and in particular, over ourselves.

### Philosophers

In Antiquity, the term “dignity” was mainly used to refer to a quality attached to an official office, a rank, or outstanding behaviour. It was dignity – *dignitas* – which implied a respect legally acknowledged.

During the Enlightenment, the point of views changed, sufficient to cause a split between Hobbes and Kant. The former considered dignity solely from the intersubjective judgements of the market and eliminated all connection with any real excellence:

“The value or worth of a man is, as for other things, his price; that is to say as much as would be given for the use of his power and therefore it is not an absolute value, but a thing dependent on the need and judgment of others.”<sup>4</sup>

<sup>3</sup> We refer in this contribution to arguments from earlier articles, without developing them: Marie-Jo Thiel, “Au nom de la dignité. Perspectives éthiques et théologiques”, *Médecine de l'homme*, n°251, January-March 2001, p. 5-21; “La dignité humaine. Perspectives éthiques et théologiques”, in: Gilbert Vincent (ed.), *Le corps, le sensible et le sens*, Strasbourg, Presses Universitaires de Strasbourg, 2004, p. 131-164 ; “Dignité? Circulez !”, in: Anne-Marie Dillens; Bernard Van Meenen (ed.), *La dignité aujourd’hui. Perspectives philosophiques et théologiques*, Bruxelles, Publication des Facultés Universitaires Saint-Louis, n°117, 2007, p. 103-122.

<sup>4</sup> Thomas Hobbes, *Leviathan*, Paris, Sirey, 1971, chapter 10, citation p. 81-82.

Kant does not quote Hobbes. However in defining human dignity as something having no price, as being above all price, he takes the opposite view while still leaving the Stoic position on merit and *dignitas*:

“What is above all price and therefore admits of no equivalent has a dignity. What is related to human general inclinations and needs has a market price.”<sup>5</sup>

Kant bases dignity neither on anthropology nor on theology, nor on happiness, usefulness, financial price or the caprices of the will. He builds it on a morality which places the human person above all price. Thus the human being’s intrinsic value is given a name, dignity (Würde). This value is something that does not depend on the esteem given by others, but relies on the human condition itself, which is characterized by the autonomy of the will, which is able to formulate universal moral laws and to freely follow them.

This view, which sets dignity of the person against the heteronomy of free choice, and which proclaims the primacy of the moral law, will strongly influence Western thinking as well as national and international legal documents. However, possible reversals of this position result when autonomy is regarded as a complete autarchy, no longer following the moral law, but following one’s merely subjective reasons or feelings: in this case dignity is no longer intrinsic, but subject to the vagaries of the individual, varying with time, space and culture...far away from the Kantian view.

## Christianity

Until quite recently, Christianity had not developed too much a theoretical explanation of human dignity as this concept was held to be self-evident: each human being is created in the image of God (a Trinitarian God), and at the same time, is created after the image of the first-born of all creatures, Jesus-Christ. This is the deepest foundation of human dignity according to the Christian faith.

This view is therefore one of a fundamental, intrinsic, or ontological dignity. However, the term dignity is also used with a moral connotation meaning the worthiness or unworthiness that may result from behaving, or not, in an ethical

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<sup>5</sup> Emmanuel Kant, *Grundlegung zur Metaphysik der Sitten*, 1785, Berlin, Akademie-Ausgabe, IV, p. 385-463; trad. Victor Delbos, *Fondements de la Métaphysique des Mœurs*, Paris, Delagrave, 1907, rééd. 1969, p. 160.

manner. For instance, during the Eucharist, believers consider themselves unworthy<sup>6</sup> to receive Holy Communion as the Body of Christ.

In Catholicism, the Vatican Council II emphasizes these two facets of dignity in the document *Gaudium et Spes* of 1965, especially in chapter one entitled “The dignity of the human person”<sup>7</sup>.

## Human dignity, human rights and bioethics

With the recognition of the Shoah and the emergence of bioethics, the expression “human dignity” asserted itself in our culture as a major reference and appeared in international legal documents.

The “Never again” which followed the Second World War found expression in the Nuremberg Code (1947) and the Universal Declaration of Human Rights (1948) and subsequently in numerous major international and national texts. The Nuremberg Code does not include the term ‘dignity’ but presupposes it, in order to require from thence forth the free and informed consent of every person undergoing medical research. The Universal Declaration of Human Rights in stating its principles declares: “*The recognition of the dignity inherent in all members of the human family, and of their equal and inalienable rights, forms the foundation of liberty, justice and peace in the world.*” Therefore it establishes the intrinsic inalienable dignity of every human being, of whatever race, colour, gender, religion. Subsequently, many other international texts emphasize this perspective (for instance, in the field of bioethics, the Oviedo Convention).

The reference to dignity would have seemed self-evident, until an article by Henry K. Beecher<sup>8</sup> suddenly demonstrated in 1966 the opposite: his critical study of 22 medical research programmes conducted in the USA after the Second World War concluded that they infringed explicitly respect for human dignity and constraints on consent as stated in the Nuremberg Code, the Code which

<sup>6</sup> Marie-Jo Thiel, *ibid.*

<sup>7</sup> See, for instance, the following passages: “For Sacred Scripture teaches that man was created ‘to the image of God,’ is capable of knowing and loving his Creator, and was appointed by Him as master of all earthly creatures” (n°12); “Man judges rightly that by his intellect he surpasses the material universe, for he shares in the light of the divine mind” (n°15); “For man has in his heart a law written by God; to obey it is the very dignity of man” (n°16); “Hence man’s dignity demands that he act according to a knowing and free choice that is personally motivated and prompted from within, not under blind internal impulse nor by mere external pressure (n°17); “The Church holds that the recognition of God is in no way hostile to man’s dignity, since this dignity is rooted and perfected in God” (n°21).

<sup>8</sup> Henry K. Beecher, “Ethics and Clinical Research”, *New England Journal of Medicine*, 274 (1966) : 1354-1360. This study concerns the *Brooklyn*, *Willowbrook*, and *Tuskegee* affairs.

contributed decisively to the birth of bioethics. During the 1960s and 1970s, dignity became a key-principle while questions were raised about its constituents and its demands for respect.

## **DIGNITY EVALUATED AS A MEASURE OF THE QUALITY OF LIFE**

Quality of life (or “health-related quality of life” in the English-speaking world) thus becomes progressively a [or: the] measure of human dignity, the gauge which assesses the still “viable” nature, or otherwise, of an existence, “useful dignity” (in Utilitarianism). Indeed the concept only grows progressively in the frame of factual medicine (evidence-based medicine): the evolution of a quality of life based on some objectively measurable elements seems to be highly attractive.

### **Emergence of concept of quality of life**

In the 1960s and 1970s the incredible achievements in controlling the living body were recognised, as were the resulting dilemmas. The latter favoured the emergence of a concept of dignity directly linked to a perception of the quality of life, or more precisely, its “non-quality” or “lack of worth”, especially at the end of life. Thus, pro-euthanasia movements demand (particularly in France) the provision of death in the name of human dignity, at the risk of actually losing it. Conversely, the pro-palliative care movements rely on the intrinsic dignity of every human being to maintain or demand a quality of life during the final support of a patient.

Simultaneously, medical advances examine, in more and more detail, the human being. They describe more and more precise stages of embryonic development and specify modalities of brain functioning such as consciousness to such an extent that one hesitates to recognize an identical dignity in everyone. The latter becomes relative (and to some extent proportional) to the best, the most developed, the most rational, the most lucid. Quality of life becomes the other key-word of a medicalized society<sup>9</sup> focusing on the health, which seems to become the *telos* of existence.

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<sup>9</sup> See Marie-Jo Thiel, “Le mouvement de médicalisation de l’existence humaine”, *Revue d’éthique et de théologie morale*, n°241, Special issue n°3, September 2006, p. 87-117. Marie-Jo Thiel, “La santé totalitaire: mythe ou réalité?”, in: Jean-Michel Boles (dir.), *Les Carnets de l’Espace éthique de Bretagne Occidentale*, Montpellier, Ed. Sauramps médical, 2009.

From the 1970s and 1980s on, quality of life is measured and becomes, as it were, a means to confirm or invalidate dignity. In 1994, the World Health Organization defined quality of life as:

“the perception by an individual of their place in existence, in the context of the culture and systems of values in which they are living, in relation to their objectives, standards, hopes and fears. It is a wide conceptual field, including in a complex manner the physical health of the person, their psychological status, level of independence, social relations, personal beliefs and relations with the specificities of their environment.”

The basic points of that definition are first, the notion of perception (the point of view of the person) and second, the multidimensional scope. The considered factors seem to gather under the same banner numerous properties contributing to the definition of dignity in the course of history and in formulating it as “relative” so that it suits everybody... One thinks about joy or pleasure, as opposed to suffering, in an utilitarian view. One thinks about the power to buy and to consume (Hobbes), now turned into a criterion for quality of life in a capitalist society. The QALY<sup>10</sup> refers to health economy... Dignity is not simply linked to reason, but to the capacity for taking rational decisions, so that the question as to whether one can be a human without being a person is raised (P. Singer). Lastly, with the extension of individualism, dignity has dependent upon subjective perception. However in the context of factual medicine, this subjectivity is considered “unworthy”. Finally, in order to resolve this contradiction, quality of life is quantified for evaluating “useful” lives, “providing the greatest happiness for the greatest number”, allowing consumption and enjoyment of life.

Classically, three categories of tool are available to assess quality of life: the usefulness measurement (QALY), the generic measurement<sup>11</sup> and the specific measurement related to a pathology. In a so-called medicalized society, the quality of life of a population is indeed a major issue for politics and the economy. However, is it an accurate reflection of dignity? Does it determine dignity to such an extent that a poor quality of life can be said to distort dignity or even that such a life is no longer worthwhile? That its “poor quality” justifies what in France is called “l’arrêt de vie” (life/death decision) of the neonate, or euthanasia of the adult, whether consenting or not? Or even that prenatal

<sup>10</sup> Quality Adjusted Life Years. This index balances the time spent in a given health status by a factor assessing the quality of this status; the factor is comprised between 0 (death) and 1 (complete health status).

<sup>11</sup> They provide data on the health status and the quality of life whatever the pathology or even in the absence of any pathology.

evaluation gives a free hand to decide whether or not pregnancy should continue (Perruche judgment)? Or even whether this living being can also serve other uses such as research, organ or stem cell harvesting?

## Limitations to the quality of life concept

It is in the interest of medical teams to have at their disposal criteria for the evaluation of care and therapy. Has not the goal of Hippocratic medicine always been the well-being of patients? Quality of life can act as a convenient tool, all the more essential in that it invites evaluation of practices according to the totality of the person. However, could it not be a perverse tool when it becomes an ontological indicative, allowing the taking of life or death decisions, instead of being, as at the beginning, a practical method aiming at standards of care as well as the support of individuals? Because the concept has evolved, even in the English-speaking world: according to Wyatt<sup>12</sup>, the *descriptive* view-point, the first sense of the word “quality”, and usually employed for people, has become an *evaluative* view-point, mostly reserved in the past for manufactured items.

In fact, what can be measured with any precision? In the prenatal and the postnatal period for instance, how does one evaluate objectively a judgment as subjective as the future quality of life of a child? How can it be believed that a biological, radiological or another assessment can predict its future quality of life? Is the part taken by the anticipative imagination not totally disproportionate?

What are the limits when evaluating lives as unreasonable or unworthy? Beethoven, Stephen Hawking, Michel Petrucciani – would they still be born today? There are of course tragic situations; however they are not the most common, far from it.

At the other extremity of life the situation is similar: how to judge the quality of life of another, especially at a time when he or she “feels” less well? How do I judge the quality of my life just after a cancer resulting in blindness has been diagnosed, or a Charcot’s disease (amyotrophic lateral sclerosis), which will asphyxiate me? Relatively good health in the present time has become a standard which will make unbearable its loss in the future. As a result, people resort to assisted suicide or demand euthanasia in order not to see themselves, or to show

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<sup>12</sup> John Wyatt, “Les décisions de fin de vie et les jugements sur ‘la qualité de vie’”, Marie-Jo Thiel (ed.), *Quand la vie naissante se termine*, Strasbourg, Presses Universitaires de Strasbourg, 2010 (in press).

to others, what is judged in advance as a status of indignity, or even as “non-person”. Others (a majority?) produce advance directives, as this allows them to “imagine” that the need for these directives will only arise in “extreme cases”, with the goal of maintaining distance. Therefore they hardly ever demand provision of death in spite of the nerve-racking hazards of reality...

As for the elderly, they are almost singled out in our ageing society: as soon as they stop consuming, as soon as their future turns misty or their family, if it still exists, distances itself, so that “logic” claims that death is better than life. Consequently, euthanasia finds its “fine justification” inasmuch as many of the elderly, tired of struggling and obtaining very little, effectively end in giving up and waiting for death.

Thus, the quality of life concept presents a real challenge to our society: either it dismisses human beings placing them in the hands of evaluators, or it institutes and (re)constitutes the human beings as they remain linked to their intrinsic dignity, supporting them and forbidding their reduction to capacities and utility. It is convenient to choose between these two whilst remaining aware of the consequences. According to Folscheid<sup>13</sup>:

“If these are the qualities of life which make a man a man, then man is merely a being without quality. In judging him only on the nature within him, his status of historical being is denied. His humanity is repudiated.”

## QUALITY OF LIFE, A REQUIREMENT OF DIGNITY

Instead of being the decisive principle, quality of life can be understood as a requirement of intrinsic dignity. In this case it is regulated by the latter as a principle of respect and equality of rights. If intrinsic dignity is not fundamental, rooted in the human being, it is definitively lost and with it, the basis of all human rights. The latter are only recognized and respected if, from the outset, common human dignity is recognized and respected.

Thus, this primacy of inalienable dignity modifies the manner of understanding of quality of life and its use in practice. It specifies at the outset the equal humanity of everybody, the equality of value and right, the autonomy of every member of the human race. That prime and inalienable quality forms the basis from then on for the obligation to support quality of life, to take care in its

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<sup>13</sup> Dominique Folscheid, “La valeur de la vie” in : Marie-Jo Thiel (ed.), *Quand la vie naissante se termine*, *ibid.*

evaluation, not to decide for another, nor to pass a sentence of indignity, but for supporting an essential equality-brotherhood. Somebody with lesser quality of life is thus entitled to keep the same dignity as everyone else.

Certainly, it will be said, but not everybody can exercise their autonomy and, on the other hand, it can still be felt that ones life lacks dignity.

### **When the use of autonomy is reduced**

This occurs for instance in Alzheimer's disease, a paradigmatic illness particularly evocative for those invoking intellectual downfall and lack of dignity. In fact, aesthetics plays a role all the more essential in quality of life as we are members of a society strongly dominated by image. Physical appearance plays a very strong sentimental and symbolic role. Just as a mother is seized by tender feelings at the sight of her newborn child – and antenatal echography can contribute to this – mental disease, uncontrolled loss of functions considered essential, deterioration of consciousness, loss of interaction with others... so all these elements can suggest feelings of unworthiness if one puts at the beginning, and as the basis of dignity, quality of life as a determining factor. However, of the mother or the elderly person, is one less worthy? If so, is that person not deprived of humanity and can therefore be separated from it?

Giving dignity to both is to use intrinsic dignity as a springboard in the service of quality of life and for engaging in a struggle in which that dignity is also a task and a fight.

It is to attempt to set up a procedure which simultaneously recognizes the autonomy of the other and corrects the lack of *use* of that autonomy: for instance it requires that doctors speak and explain matters to patients, as to anybody else, even if it is known that they will not understand everything, only certain aspects, often associated with emotions. It requires, when a decision has to be taken, the establishment of a team which is prepared to take advice from an external third party, while including the patient in the process.

### **And when one feels one's life lacks dignity?**

Recognizing intrinsic dignity does not imply that every individual experiences it fully, nor always acts in conformity with it. But it is to refuse to build dignity entirely on an expression of psychological feeling and lived experience.

The foundation of dignity would consist either in the characteristics of human beings, on feelings, or in each culture and therefore subordinated to it. Our position is that dignity must be recognized in its intrinsic nature; in other words, that it has to be recognized beyond the qualities, always potentially discriminatory, of human beings, and irrespective of cultural settings. It is indeed from above (on this side of the qualities of the human substance itself) and from below, in a meta-position. Therefore it can be proposed for *all* cultures, as it belongs to no one in particular, inviting everybody to provide singular roots to it, but without monopolizing it, without exhausting it, as it is always beyond all cultures, in an eschatological position, a dignity to be established, a human truth to be unveiled.

Therefore intrinsic dignity can establish links with theoretical and practical<sup>14</sup> developments which are very different, even totally irreconcilable, as at the time of its proposition, when, unestablished, it establishes principles, it is also in a meta-position, as an untouchable, irrefutable value, inviting attestation and possibly protestation. René Simon puts this in the following terms:

- The “attestant” testifies before men, even also before God, to the inalienable dignity of every human being. Even in the absence of immediate results, he must persevere in the name of dignity as a prophetic and eschatological truth assigned to an ethical commitment<sup>15</sup>.
- The “contestant” protests, that as not everything is acceptable one must be ready, if required, to risk one’s life for it. Nobody would do this if dignity were a merely relative notion.

The other aspect consists in articulating the various levels inextricably linked to dignity, more precisely in circulating between a fundamental intrinsic dignity, linked to membership of humanity, a subjective, experienced and phenomenological dignity, and finally, an objective dignity, deployed in real-life and which designates an ethical point of view. As this matter has already been considered several times in the past<sup>16</sup>, this last aspect will only be discussed briefly. Intrinsic dignity is fundamental, linked to the individual, ontological. Nobody could exist without being recognized in their constituent dignity and the responsibility which this implies for all others. According to Eric Weil<sup>17</sup> :

<sup>14</sup> The various monotheisms propose for instance specific roots for the dignity concept.

<sup>15</sup> René Simon, *Pour une éthique commune. Réflexions philosophiques et éclairages théologiques 1970-2000*, Paris, Cerf, 2009, p.144.

<sup>16</sup> See note n° 3.

<sup>17</sup> Eric Weil, *Philosophie morale*, Paris, Vrin, 1992, p.131.

“I can demand the respect for my dignity as a human, not because it is I who demands it, but because I cannot demand it for myself without demanding it for every human being and therefore also for me.”

However, that fundamental dignity does not prevent vague yearnings, differentiated feelings of dignity, variable in time and space, linked to both the personal history of each individual and their social roots. This feeling of dignity originates from self-esteem, from self-appreciation, while assuming the complexity of the human condition, even its contradictory aspects. One who reads in the eyes of another, that his life has become useless can also feel himself unworthy to continue. Someone whose quality of life is physically very limited, but who remains deeply attached to one or several relations, can behave with great dignity. This articulation of feeling with intrinsic dignity then becomes essential: as strengthened by that recognition one can go beyond appearance and ill-temper, count more on one or another aspect of the quality of life and allow oneself as well as another to become reimbued with dignity, common to all humans in order to live better.

The third level, the objective displayed dignity, could also be called “ethical dignity” if this expression might not lead to confusion. Indeed the feeling of dignity is not necessarily linked to the ethical quality of actions (for instance, psychological perversion). According to Kant, the intrinsic dignity of beings having their own aims, commands them to comply with the moral law. “The objective dignity displayed then designates for everybody the ethical implementation of their humanity, always at a distance from the ideal, always “only” human and not inevitably guilty, when evil and finiteness are involved. In this case it will be qualified as “objective indignity”. However, we must remember that no human existence could inherently result solely from such an indignity.”<sup>18</sup>

The circulation beween these three polarities of dignity leads therefore to an assumption of the complexity of being human, to suppress one’s own desire to alienate others or oneself. Of course, this does not offer an immediate response to bioethical questions. But it suggests that one should not idolize realities, potentials or techniques, and take seriously both subjectivity and objectivity. “Detached from that systemic regulation, denied in their reciprocal links, the three levels of understanding and, finally the wealth of dignity, become dystrophic and open the door to numerous potential abuses: formalism, subjectivism, legalism and many others.”<sup>19</sup>

<sup>18</sup> Marie-Jo Thiel, “Dignité? Circulez !”, *ibid.*

<sup>19</sup> *Ibid.*

Intrinsic dignity is therefore also a regulating and motivating dialectic notion. It invites respect as well as struggle, attestation and sometimes resistance. It is a gift of the human condition which simultaneously founds human rights and invites to laying bare this dignity in order to live.