

SW 101: Law's Autonomy and Concepts of Human Dignity

Convenors: Manuel Atienza, José Manuel A Linhares

This workshop aims discussing the *claim to Law's autonomy* (with the plurality of significations and possibilities involved) whilst simultaneously considering the role which, in the defense or refutation of this claim, plays (or has been playing) the specification and institutionalization of *humanitas* through different concepts of *human dignity*.

One of the plausible challenges is for instance considering the well-known distinction proposed by Jeremy Waldron between *dignity as rank and status* and *dignity as value*. Is it possible to say that it is precisely the first one (inseparable from the principle of *audiatur et altera pars* and the demands of due process, as well as intrinsically related to the perspective of the problem-*case*) the specification of *human dignity* which Law invented *as its own* (even though in its initial consecration this meant exploring an implacably *closed* circle of inter-subjectivity)? Could we defend that it is this specification of *humanitas* the one which has been continuously pursued and permanently reinvented (not merely *expanded* within its own circle) as an indispensable identifying claim (*dignity as rank and status as an «intrinsic», non-contingent, «legal idea*)? And what happens (i.e. which implications are acknowledgeable concerning the problem of Law's autonomy) when the political-philosophical and moral idea of *dignity as value*, autonomously introduced in the modern cycle (the culminating canonic expression of which is certainly Kantian *Menschenwürde*) is assimilated into Law's practical world?

Another plausible reflexive challenge is certainly the one which Habermas explores concerning the «conceptual bond» that connects the categories *Menschenrechte* and *Menschenwürde*. How should we understand the «temporal asymmetry» drawn between the «history of human rights» (dating from 17th and 18th centuries) and the recent legal *juridification* of the concept of «dignity» (systematically imposed in the second half of the 20th century)? Is it possible claiming that the latter concept, instead of being treated as an «*a posteriori* classifying expression» (*nachträglich klassifizierende Ausdruck*), should be understood as the «moral “source” from which all basic rights

derive their substance» (*die moralische “Quelle”, aus der sich die Gehalte aller Grundrechte speisen*)? Has this diagnosis of asymmetry —or has the possibility of reflexively overcoming it— significant implications whilst considering the problem of Law’s autonomy?

Each presentation should last 25 minutes (with 15 minutes of discussion).

Tuesday, the 9th Morning

• 08.30-10.30 | Session 1 – Chair: Manuel Atienza

1) Brisa Paim Duarte (University of Coimbra), *Human Dignity as Dogma, Principle, Value...? Critical(-Aesthetic) Approaches to Personhood, Juridical Subjectivity, Intersubjectivity and Community, and the Problem of Normative Validity*

2) Eduardo Chia (Goethe University, Frankfurt am Main), *About the meaning of autonomy (of the law) in legal theory*

3) Jesús Vega (University of Alicante), *Constructivist metaphors and law’s autonomy in legal post-positivism*

• 10.30-11.00 | Coffee Break

• 11.00-13.00 | Session 2 – Chair: J M Aroso Linhares

4) Ana Margarida Simões Gaudêncio (University of Coimbra), *Merit, Value and Justification: Human Dignity vis-à-vis Legal (Inter)subjectivity – The Autonomy of Subjects Within the Autonomy of Law*

5) José de Sousa e Brito [Judge of the Tribunal Constitutional (Lisbon) *emeritus*, Universidade Nova de Lisboa], *Towards a Logic of Democracy: From Human Dignity to Human Rights*

6) Manuel Atienza (University of Alicante), *The foundation of human rights: autonomy or dignity?*

Afternoon

• 14.00-16.00 | Session 3 – Chair: J M Aroso Linhares

7) João Cardoso Rosas (University of Minho), *Dignity and Human Rights Law: Promise, Emptiness and Delivery*

8) Orit Kamir (Israeli Center for Human Dignity), *Israel's War on the Hegemony of its "Basic Law Human Dignity"*

9) Julie Copley (University of Adelaide, University of Southern Queensland), *No argument: human dignity and the making of legislation*

• 16.00-16.30 Coffee Break

• 16.30-18.30 Session 4 - Chair: Manuel Atienza

10) Attila Lengyel (Jagiellonian University in Cracow), *The metaphysical basis of dignity in context of law's autonomy*

11) Silvia Niccolai (University of Cagliari), *Rediscovering Law as a Subjective, Human Experience: the Relation Between Law's Autonomy and Human Dignity in Alessandro Giuliani's Thought*

12) José Manuel Aroso Linhares (University of Coimbra), *Is dignity a noncontingent autonomously juridical "idea"? A conversation piece with Jeremy Waldron*