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Dignity, Human Rights, and Democracy

Abstract:

In order to analyze what can plausibly be said about the relationship between dignity, human rights, and democracy, I will propose a basic assumption about human dignity (I) and then formulate five theses concerning the justification of democracy (II) which will allow me to conclude (III) that only when human rights are constitutionally established and effectively implemented democracy can be theoretically and practically justified as a political means to guarantee human dignity.

1. Dignity

My basic assumption is that dignity is a defining characteristic attributed to living human beings as such. However, dignity is not a descriptive concept. To say that all human beings have dignity is not like saying, for instance, that all human beings have certain biological features common to the species *homo sapiens sapiens*. Rather, the concept of dignity is *ascriptive*. It expresses and attributes a positive (moral) value judgment.

Human dignity can sensibly be ascribed to some *X* only if it is true that *X* is a living member of the human species (the age, physical or mental state of *X* do not matter for the ascription).¹ The ascription of dignity is triggered by that condition, so to speak. That is, it is triggered conceptually, in the sense that it would be contradictory to say that *X* is a living human being, but has no dignity. Paraphrasing Kant we can say that to assert the dignity of *X* entails asserting the humanity of *X*. To ascribe dignity to living human beings is like attaching a non-negotiable, inalienable, unerasable value label to them, in order to prevent any attempt by self or others of a dehumanizing devaluation.

Dignity imposes duties and confers fundamental rights. The basis of all this is a conception of living human beings which prohibits treating them, in the words of the second formulation of Kant's categorical imperative, "merely as a means". I will argue that the only political system compatible with due respect for human dignity is a democratic system with additional restrictions which make it morally justifiable.

¹ The ascriptive nature of the concept of human dignity is not affected by the controversy about what exactly must be the case for someone to be identified as a member of the human species, e.g. about the state at which that membership begins.

The ascription of dignity carries a universal quantifier over all living human beings; concerning their dignity, that is, all elements of that class are equal, as expressed by Michael J. Meyer (1989, 324):

“One’s human dignity, if it is a mark of anything, is a mark of one’s equality on some fundamental level with other human beings.”

Whatever the inequalities accepted in a society and the arguments intended to justify them, there is at least one inequality which is inadmissible from the moral point of view because it would amount to the denial of the equal humanity of the members of society, and that is inequality of dignity. Now, in my view, what is expressed in human rights is precisely which inequalities between people would amount to disrespecting their equal dignity, i.e. denying the equal humanity of some living human being. If one also accepts that

“the most basic premise of Western democracy—that government should be republican rather than despotic—embodies a commitment to that conception of dignity” (Dworkin 1994, 167),

then it becomes interesting to look at the justifying conditions of democratic systems which ensure that such systems possess adequate political and legal resources to prevent the emergence of dignity-affecting inequalities.

2. Horizontal Constraints

My theses concerning the justifying conditions of democracy are the following:

1. Democracy understood as majority rule based on the principle of ‘one person, one vote’ is not self-justifying.
2. For its justification, democracy needs external support, i.e. a kind of ‘moral crutches’ which allow the system to operate without giving in to the temptation to impose “majority domination”, as Hans Kelsen called it. Such restraining support, which makes it feasible to implement the majority principle in a justifiable way, can be of two kinds: either personal, or institutional. Those relying exclusively on the citizens’ personal characteristics I will call ‘horizontalist’; those relying on the help of third-person or institutional guardians I will call ‘verticalist’.
3. Horizontalists tend to assert propositions that are either universal but utopian, or realistic, but of restricted scope.
4. Verticalists are cautiously pessimistic; therefore they look for constraints to potential weaknesses or deviations of the human will. Their position is similar to that of a justifiable paternalism.
5. Personal as well as institutional paternalism, to the extent that they are justifiable, argue in favor of the implementation of human rights as the justificatory basis of democracy as an effective protector of human dignity.

Personal paternalism, however, is short-lived (for natural reasons: whatever is born will die). Hence, the only remaining option is institutional verticalism which may be justified on the same criteria as personal paternalism, but has the advantage of potential temporal stability and of not being subject to the weakness of will that can frustrate the best intentions of personal paternalism.

Let us now take a closer look at these theses, in turn.

Two presumably self-sufficient justifications for majority decision-making—understood as the central feature of democracy—are often alleged:

a) An utilitarian reason:

The satisfaction of the preferences of the majority is believed to ensure the highest measure of social happiness. On this conception, what matters is the aggregate satisfaction of people's desires, regardless of what these desires are and whose desires they are. This view needs no particular conception of the good. Each individual counts as one and only one, regardless of anyone's moral beliefs. Besides, since priority is given to people's desires rather than to their interests, the democratic majority rule allegedly is a safeguard against paternalistic or, even worse, perfectionist intentions of any kind. Majority rule or, as it is sometimes called, majority consent is thought to be the best prevention against dictatorship.

The larger the aggregate of satisfied desires, the better. The consent of the majority thus ensures the happiness of the society at large.

b) An epistemic reason:

It is less likely that the majority errs. If we accept the existence of political truths, it is said, then the probability that a collective decision is the right one is higher when a larger number of voters endorses it, provided each has a certain likelihood of making a correct decision. This argument, developed in the 18th century by Condorcet, was recently reinvented explicitly by Carlos S. Nino. Let us look at it more closely.

According to Condorcet, the reason for action of *homo suffragans* is the collective search for political truth. By contrast to the utilitarian argument, *homo suffragans* does not express desires but truth judgments. In that case, under certain circumstances, when a plurality of people express their opinion, truth is more likely to emerge than error (cf. Granger 1989, 97).

Carlos S. Nino takes Condorcet's theorem as his starting point. In his view, democracy is an 'institutionalized surrogate' for moral discourse:

"Democracy can be defined as a process of moral debate with a time limit. [...] In fact, a process of moral debate with a time limit in which a majority decision must be taken [...] has a higher epistemic power to reach morally correct decisions than any other procedure of collective decision-making." (Nino 1997, 167f.)

In my view, neither the utilitarian nor the epistemic argument is tenable:

Concerning the utilitarian argument, at least since the formulation of the so-called 'Borda paradox' which Condorcet himself refers to we know about the difficulties of meaningful preference aggregation through voting whenever there is a choice between more than two candidates or programs. Besides, it also seems debatable whether all desires should be taken into account unconditionally. It is certainly not invariably true that all individuals are the best judges of their own interests, as John Stuart Mill believed. Nor is it true that the satisfaction of the preferences of the majority always implies the greatest measure of social happiness; after all, the intensity of desires must also count for something:

"Suppose that people in general care more about being able to do what they want than they care about stopping other people from doing what they want. This implies that freedom will tend to generate more utility than repression. But this still leaves open the possibility that a mild preference on the part of a large majority of the population for preventing a minority from doing something (e. g. engaging in homosexual acts or Protestant forms of worship) might outweigh in the calculus of aggregate want-satisfaction a more intense preference on the part of the minority for doing it." (Barry 1995, 135)

Concerning the epistemic value of majority rule, we must take into account that for Condorcet as well as for Nino this value can be obtained only under strong conditions. In the case of Condorcet, decisions must be made

"under certain conditions (or constraints). The number of voters, the required majority, the form of deliberation, the education and the knowledge of the voters are necessary conditions in the definition of the decision-making situation. The truth of the decision not only depends on the voters but also on the conditions under which the vote takes place, on the form of assembly [...] as well as on how it operates to reach a decision." (Cf. Rashed 1974, 70)

Thus, Condorcet himself stipulated:

"Suppose, above all, assemblies of voters who have an equal precision of mind and equal learning: suppose that none of the voters has influence on the votes of the others and that all express their opinion in good faith." (Rashed 1974, 152) "[Suppose] equal wisdom, and an equal sharpness of mind of which all make the same use, that all are driven by an equal spirit of justice, and finally that each one has voted by himself as he would do if no-one had a stronger influence on his opinion than that which he has received from himself." (71)

Similar doubts can be raised about the conditions Nino mentions in order for a democratic discussion to be an institutionalized surrogate for moral discourse. The prerequisites can hardly be complied with in real parliamentary discussion or in public referenda. Here are some of them:

- i. “all participants [...] must justify their proposals to the others”;
- ii. the adopted positions must be “real and genuine”;
- iii. the discussion must be “authentic”;
- iv. propositions must be acceptable “from an impartial point of view”;
- v. discussion may not consist in the “mere expression of desires or description of interests”;
- vi. it must not be limited to the “mere description of facts, such as a tradition or custom”;
- vii. the requirement of the generality of normative propositions must be satisfied;
- viii. participants may not merely give “prudential or aesthetic reasons”; they must intend to express moral propositions (cf. Nino 1997, 171f.).

Obviously, with these constraints Condorcet and Nino abandon the justification of democracy as a mere procedure for the expression of desires or of political truths. Their democratic participants operate under severe restrictions; their *homo suffragans* is a *homo suffragans restrictus*.

On the danger of majority domination and the suicidal tendencies of democracy if the will of the majority is not restricted, I have extensively written elsewhere (Garzón Valdés 2000, 24ff.). Aristotle already saw the problem of the tyranny of the majority. His considerations on this subject deserve a larger quotation:

“For in democracies which are subject to the law the best citizens hold the first place, and there are no demagogues; but where the laws are not supreme, there demagogues spring up. For the people becomes a monarch, and is many in one; and the many have the power in their hands, not as individuals, but collectively. Homer says that ‘it is not good to have a rule of many’, but whether he means this corporate rule, or the rule of many individuals, is uncertain. At all events this sort of democracy, which is now a monarch, and no longer under the control of law, seeks to exercise monarchical sway, and grows into a despot; the flatterer is held in honor; this sort of democracy being relatively to other democracies what tyranny is to other forms of monarchy. The spirit of both is the same, and they alike exercise a despotic rule over the better citizens. The decrees of the demos correspond to the edicts of the tyrant; and the demagogue is to the one what the flatterer is to the other. Both have great power; the flatterer with the tyrant, the demagogue with democracies of the kind which we are describing. *The demagogues make the decrees of the people override the laws, by referring all things to the popular assembly.* And therefore they grow great, because the people have all things in their hands, and they hold in their hands the votes of the people, who are too ready to listen to them. Further, those who have any complaint to bring against the magistrates say, ‘Let the

people be judges'; the people are too happy to accept the invitation; and so the authority of every office is undermined. Such a democracy is fairly open to the objection that it is not a constitution at all; for where the laws have no authority, there is no constitution. *The law ought to be supreme over all*, and the magistracies should judge of particulars, and only this should be considered a constitution. So that if democracy be a real form of government, the sort of system in which all things are regulated by decrees is clearly not even a democracy in the true sense of the word, for decrees relate only to particulars." (Aristotle 1926, 1292a, emphasis added)²

Here, Aristotle envisions two ways of controlling the will of the majority: aristocratic government, and the priority of laws over decrees. Rather than discrediting democracy, he attempts to find means for making it morally justifiable. The idea of aristocratic government relies on personal characteristics of (some) citizens in a justifiable democracy; the superiority of laws over decrees can be seen as an institutionally imposed constraint on citizens. In other words, regarding the genesis of these constraints, they are either individually self-imposed or of external origin.

In the history of political thought, there are various versions of the idea of self-imposed subjective constraints (which I will call 'horizontal constraints' since they are all on one and the same level) of which I will briefly mention only two:

a) Jean-Jacques Rousseau's main concern regarding the design of a morally acceptable political system was how to maintain the personal autonomy which existed in the state of nature. The problem for him was

"To find a form of association which defends and protects with all the power of the community every member's person and property and in which everyone, in joining himself to all others, still obeys no-one but himself and remains as free as before."³

² I interpret 'law' to mean 'constitution' and 'decree' to mean 'a law approved by simple legislative majority'. Aristotle's thesis was taken up with obvious approval and enthusiasm by Edmund Burke 2003, 106: "If I recollect rightly, Aristotle observes, that a democracy has many striking points of resemblance with a tyranny. Of this I am certain, that in a democracy, the majority of the citizens is capable of exercising the most cruel oppressions upon the minority, whenever strong divisions prevail in that kind of polity, as they often must; and that oppression of the minority will extend to far greater numbers, and will be carried on with much greater fury, than can almost ever be apprehended from the dominion of a single sceptre. In such a popular persecution, individual sufferers are in a much more deplorable condition than in any other. Under a cruel prince they have the balmy compassion of mankind to assuage the smart of their wounds; they have the plaudits of the people to animate their generous constancy under their sufferings: but those who are subjected to wrong under multitudes, are deprived of all external consolation. They seem deserted by mankind, overpowered by a conspiracy of their whole species."

³ Rousseau 1964, 360: "Trouver une forme d'association qui défende et protège de toute la force commune la personne et les biens de chaque associé, et par laquelle chacun s'unissant à tous n'obéisse pourtant qu'à lui-même et reste aussi libre qu'auparavant."

To reach this goal, the necessary means was

“the total surrender of all members with all their rights to the community as a whole. Because [...] when everyone surrenders completely, the condition is the same for everyone, and since the condition is the same for everyone, no-one has an interest in making it burdensome for the others.”⁴

That “total surrender” meant giving up one’s *amour propre* (while keeping one’s *amour de soi-même*), and it meant the full acceptance of the *volonté générale* as the criterion of moral correctness. In other words, the citizen of Rousseau’s republic renounces his individual preferences when they are incompatible with the pursuit of the common good. In voting, Rousseau’s citizens express their desire to promote that common good rather than their personal preferences, as in the utilitarian view.

In Rousseau’s ideal community, *all* members are *always* authentic democratic citizens. The only problem with this is that Rousseau’s requirement that, as a starting point for a democratic community, all must voluntarily give up their self-interest is empirically untenable—which is not a small problem.

Rousseau’s horizontal constraints claim universality, but are feasible only in the realm of utopia. It is thus not plausible to put one’s confidence in them.

b) David Hume proposed a conception of the citizen as a subject with “sympathy” and an interest in the common good. In a democratic community of ‘sympathetic’ citizens in the Humean sense, votes would, by definition, be the expression of a socialized self-interest and would also constitute a step towards the discovery of ‘political truth’. In that sense, there is no problem in attributing a moral quality to a community of that kind which constrains self-interested impulses for the sake of the common good. ‘Majority domination’ is not an issue here.

However, although perhaps such communities could exist, they would have to be small and culturally homogeneous, because—as Hume himself recognized—sympathy is limited. Thus, Hume’s horizontalist idea, though not utopian, is not applicable to democracies for a large and heterogeneous population.

With these two examples in mind, the case for horizontal constraints does not look very promising. So let us explore the alternative and see what suggestions the ‘verticalists’ offer.

⁴ Rousseau 1964, 361: “[...] l’aliénation totale de chaque associé avec tous ses droits à toute la communauté. Car, premièrement, chacun se donnant tout entier, la condition est égale pour tous, et la condition étant égale pour tous, nul n’a intérêt de la rendre onéreuse aux autres.”

3. Vertical Constraints

The main question to be analyzed here is the following: If we cannot rely on the angelical or sympathetic nature of the members of society because we must always count on the existence of people with a rather diabolic or antipathetic character, would it not be better to take recourse to ‘vertical’ constraints (that is, constraints imposed in a top-down fashion) that apply to everyone, which would liberate us from the insecurity of the hardly trust-worthy nature of man?

The objective of such ‘vertical’ constraints would be the same as that of ‘horizontal’ constraints, namely to impede deviations of the will of the people that could lead to the self-destruction of democracy by imposing majority domination, as Aristotle or Kelsen feared.

The aim is to fence in the will of the people for their own good: to set a limit to what James Buchanan has called the “appetite of majority coalitions” which, as with human beings, tends to lead to obesity, in this case “majoritarian obesity”, which

“as outlined above, is the tendency of representative democracy to turn into the ‘elective despotism’ of party government: politicians, far from being a primary defence against the governmental machine, exploit its potentialities of centralized and hierarchical administration to the full to drive through a limited number of their own objectives.” (Hirst 1990, 31)

Again, we can basically think of two different types of vertical constraints: personal and institutional ones. In both cases, the exercise of the popular will is to be controlled, for its own good. Hence, we are talking about a kind of tutelage that could be interpreted as a version of justifiable paternalism. Far from leading to dictatorship (as utilitarianism feared), such a paternalism helps to ensure an important measure of social equality by controlling against those inequalities that might result from what I have called ‘basic incompetence’ in the exercise of citizen rights.

As an example of a personal vertical constraint, think of the attitude of democratic thinkers who in the 19th century in Latin-American countries such as Argentina and Chile proposed what they called the “tutelage of the ignorant”. Here, I will only refer to the Argentine case and recall one of the central theses of Esteban Echeverría, the social-democratic Argentine thinker of the mid-19th century who thought that the democratic institutional order that was to be established in the country was doomed to become effective only in a small part of society:

“Sovereignty is the greatest and most solemn act of reason of a free people. How could those who do not know about its importance take part in that act? Those who for their lack of understanding are incapable of distinguishing good from bad in matters of public affairs?”

Those who because they are ignorant about what would be appropriate have no opinion of their own and are therefore likely to give way to the suggestions of people with bad intentions? [...] Therefore, it is necessary to put the ignorant, the tramp, the man who lacks personal independence, under tutelage.” (Cf. Echeverría 1978, 60–61 and 62)

Personal vertical constraints, however, risk being converted into instruments of elitist manipulation. Far from ensuring the proper operation of representative democracy, they foster populism and the election of leaders whose interest is to keep the people politically ignorant and to impose a system of majority domination led by themselves, i.e. by ‘demagogues’ of the kind Aristotle denounced.

From the moral point of view, political manipulation turns citizens into mere instruments or means of the ruler to obtain his ends, which means that it violates their dignity in the most fundamental sense. But even if an elite were really interested in protecting minority rights and promoting the civic education of the masses, because of the shortness of life and the certain appearance of new elites it seems wise not to put too much confidence in an acceptable operation of personal vertical constraints. As in the case of horizontal personal constraints, here too we must beware of a utopian optimism on the one hand and a reduced scope, on the other.

That leaves us, finally, with the option of institutional constraints. As William Nelson (2000, 196) remarked:

“More generally, if we suspect that we will find difficult to resist temptations, that can be a ground for precommitment strategies; and one form of precommitment is simply to avoid having the right to succumb to the temptation. Constitutional limits on legislative authority can be viewed as precommitment strategies of this sort.”

From Plato and Aristotle, Hobbes and Locke all the way to Kant, distrust in human nature has been one of the main reasons for the moral justification of the state, as a normative artifice intended to make peaceful coexistence possible. Kant is the thinker who most clearly saw the need to abstract from empirical personal characteristics in the foundation of moral norms. But he also knew that citizens are real beings of blood and flesh disposed to let themselves be guided by self-centered ‘heteronomous’ impulses, and he therefore proposed a political system capable of operating even in a society of egoists if only they wish to live in society.

What is required in order to achieve this are institutional vertical constraints, as a kind of ‘moral crutches’. What basically underlies the idea of ‘crutches’ is that the moral legitimacy of a political and legal system is not to be confused with its stability. Its legitimacy depends on the coincidence of the system’s principles and rules with the principles and rules of a critical ethics; the stability of such a system, by contrast, depends on the citizens’ moral quality. Legitimacy requires, among other things, constraints on the domination of a

majority. As I have tried to show, the best way to achieve this is by setting up institutional vertical constraints. The promotion of morality among the citizens, through horizontal constraints which either attempt to foster a civic culture interested in the common good (as Rousseau advocated) or which socialize egoism (as Hume liked to say) is a matter of teaching political morality, primarily aimed at the stability of a system. I will here briefly refer only to the first of these options, concentrating on restrictions of the power of parliamentary majorities.

Constraints of that kind were imposed by socially oriented liberal constitutions. In such systems, the Anglo-Saxon *rule of law* gave way first to the *Rechtsstaat*, by adding the respect for individual rights to the principle of legal certainty (cf. Waldron 1999, 7), and then to the *soziale Rechtsstaat*, by incorporating public obligations for the protection of the economically weakest sectors of society.

It is these principles and rules which make for the moral quality of republican or, if you prefer, liberal-democratic orders and guarantee their moralizing operation. They are the substance of what I like to call the ‘off limits’ for democratic deliberation and decision-making. This ‘off limits’ area is not a consequence of citizens being moral agents or actors who keep in mind the common good. It is rather the other way around: the moral quality of citizens derives from the existence of that ‘off limits’ area. In other words, in order to have a morally acceptable range of freedom, the power of the state and its institutions does not need to be abolished, as anarchists claim, or be drastically cut back, as the credo of libertarians has it; on the contrary, it can only be achieved by fully implementing the institutional ‘off limits’ of basic individual rights. That is, I believe, the meaning of the often quoted and apparently somewhat paradoxical sentence of Emile Durkheim: “The stronger the state, the freer the citizen.”

Human fundamental (civil, political, social) rights—which in my view must be included in the ‘off limits’ for majority decisions—are an essential part of any constitutional design that is to be capable of translating the respect for human dignity into specific practices. As long as these rights are respected, a person cannot be treated as a mere means.

By contrast, when human rights are violated, this triggers a process of dehumanization of which we can find more than a few examples in human history. That is something Hannah Arendt has very clearly expressed (1968, 445 and 451):

“The first essential step on the road to total domination is to kill the juridical person in man. [...] The aim of an arbitrary system is to destroy the civil rights of the whole population, who ultimately become just as outlawed in their own country as the stateless and homeless. The destruction of a man’s rights, the killing of the juridical person in him, is a prerequisite for dominating him entirely.”

4. Human Rights

With the aforesaid in mind, we can now come back to the point of departure and draw some conclusions about the relationship between human dignity, human rights, and democracy. In order to do so, I will once again propose five theses.

1. With respect to human rights, the concept of human dignity has a kind of ‘transcendental’ role, in the Kantian sense of the word: We refer to it in order to specify the content and the extension of human rights. That is why I think Joel Feinberg (1980, 155) is right when he says that

“what is called ‘human dignity’ may simply be the recognizable capacity to assert claims. To respect a person then, or to think of him as possessed of human dignity, simple *is* to think of him as a potential maker of claims.”

It is thus not by accident that the Preamble of the *International Covenant on Economic, Social and Cultural Rights* of 1966 says: “These [human; EGV] rights derive from the inherent dignity of the human person.” Seen in this light, the main function of human rights is to formulate and demand the implementation of the necessary conditions for the protection of human dignity and for making its denial—by disrespecting negative human rights or by not complying with the demands of positive human rights—deontically impossible. This functional link between human rights and human dignity makes the former non-negotiable; otherwise, human dignity would cease to be the moral equivalent to the biological make-up of living human beings. The *existence* of a basic right must therefore not be confused with its *formulation* in some moral or legal code. Upholding that confusion would amount to saying that until a moral right has been expressed in words, it could not have been violated.

2. The first thesis concerned the relationship between human rights and human dignity. Let us now look at the relationship between human rights and democracy. I think that the role of human rights incorporated in democratic constitutions is twofold: on the one hand, they stipulate the priority of primary goods, i.e. of those goods that are necessary for the achievement of a humanly dignified life; and on the other hand, they prevent, vertically or institutionally, the domination of the majority:

“No majority is morally entitled to infringe on rights, liberties, and opportunities that are essential to the existence and operation of democracy itself [...] it is a logical self-contradiction to employ democratic principles and processes to justify an action by a majority that would violate those very principles and processes. To say that a majority is capable of destroying democracy is not to say that a majority is morally entitled to destroy democracy.” (Dahl 2002, 165f.)

3. Since treating a person as an end in itself implies respect for the person's self-imposed ends, i.e. her objectives, goals and projects, the principle of human dignity implies a respect for human choices. From the moral point of view, the personal liberty of the governed may not be done away with. Otherwise, if laws are imposed without the consent of the governed, citizens are treated merely as means for the ends pursued by the rulers. However, in practice that right must be subject to a restricting principle that constrains the exercise of the citizens' will in order to prevent it from undermining the preconditions for its own practice.
4. The capacity of being 'a potential maker of claims' is a necessary prerequisite of any conception of human rights. Denying that capacity to someone therefore constitutes the most extreme degree of exclusion from human society, i.e. from the realm of humanity.
5. Democracy is a practice, and if the respect for human dignity through the implementation of human rights is part of what democracy demands, then it is obvious that when human rights are merely rhetorically invoked but not effectively implemented, the actual practice is no more than a perverse caricature of the best political system ever invented.

Human rights, one could conclude, are the conceptual bridge that links dignity with democracy. Human dignity in society can be ensured only in a democracy that is subject to vertical constraints which are imposed by the recognition of human rights. If human rights are violated or ineffective, this affects the supporting pillars on both sides of the bridge. Dignity then becomes merely an empty word, and democracy degenerates into the tyranny of demagogues. In the former case, human beings are 'animalized', in the latter, individuals are buried under the avalanche of the uncontrolled will of the strongest. In both cases, individuals are humiliated and social life lacks decency.

The conclusion of all this is that our attention for the strength and stability of the bridge of human rights should never wane. Rather than a rhetorical luxury, they are the bulwark against the insolence of arbitrariness and against attempts to impose discriminating inequality at the most basic level of the human condition: that of human dignity.

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