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## HUMAN DIGNITY IN THE LAW

In his book *Human Dignity and the Law: A Personalist Theory*,<sup>1</sup> Michał Rupniewski explores the concept of human dignity within the legal framework. He introduces the Status of Personhood Theory (SPT), which posits that human dignity should be understood as a cosmopolitan principle intrinsic to contemporary law. Rupniewski refers to that principle as the Principle of the Status of Personhood (PSP) and holds that it “expresses the priority status of human persons towards the law, which translates into respectful relations between persons, *mediated by law*.”<sup>2</sup> He emphasizes that the central thesis of the book is that “the normative expression and prescription of such relations in the norms related to human dignity is not a mere historical contingency; *it is a consequence of the real connection between legal activity on the one hand, and natural human personhood on the other*.”<sup>3</sup> Rupniewski aims to substantiate the central claim of his book by pursuing four research objectives, which include: (1) identifying the privileged position of human dignity in the law, (2) explicating the concept of human dignity in the law as the Principle

of the Status of Personhood, based on the dignitarian moment interpreted in the light of the personalist concept, (3) explaining the presence of the Principle of the Status of Personhood in the law in the light of a personalist interpretation of dignity, and (4) incorporating the Principle of the Status of Personhood into a wider web of political-legal ideas, especially in the areas of adjudication and legislation. These specific research objectives are addressed in the four chapters of which the book is composed.

The opening one, “Methodological Credentials of Human Dignity in the Law,”<sup>4</sup> focuses on certain methodological assumptions that form the basis for justifying the central thesis. The author undertakes to conceptualize and elucidate the relationship between human dignity and the law. He suggests that human dignity is at least a constitutive element of certain social relations and legal institutions at a fundamental level.<sup>5</sup> Dignity as a transcendental condition of law, as well as human dignity reconstructed in the light of personalism, can provide a sound foundation for explaining their mutual relations. Methodological commitments (the human condition, weak metaphysical parsimony, skeptical realism) and a transcendental, re-

<sup>1</sup> Michał Rupniewski, *Human Dignity and the Law: A Personalist Theory* (London and New York: Routledge, 2023), pp. 258.

<sup>2</sup> *Ibidem*, 1.

<sup>3</sup> *Ibidem*.

<sup>4</sup> See *ibidem*, 7–64.

<sup>5</sup> See *ibidem*, 8.

constructive, explanatory, and critical approach play a crucial role in the strategy for justifying the main claim of the book. The author stipulates that methodological commitments make him refrain from seeking ultimate metaphysical explanations concerning human dignity. He also emphasizes that the process of elucidating the relationship between law and human dignity should begin with the law. By analyzing selected legal documents, Rupniewski points to characteristic examples of the application of the concept of dignity in the law, referring to this phenomenon as the “dignitarian moment.” He identifies various functions (foundational, regulative, heuristic, and meta-legal) and aspects (e.g., ontological, moral, political, humanitarian, and social) of the dignitarian moment. According to the author, firstly, the dignitarian moment serves as a basis for explaining human dignity in the law and, secondly, it is a phenomenon that can be properly interpreted and explained in itself.<sup>6</sup> The chapter concludes with a brief characterization of the Status of Personhood Theory and a description of the methods that will be applied in the subsequent parts of the book, i.e., those of reflective equilibrium, comparative legal interpretation, and the phenomenology of human action.

The second chapter, “Philosophy: The Personalist Conception of Human Action and Affirmation Proper to Persons,”<sup>7</sup> discusses the philosophy of the human person. Rupniewski reconstructs the personalist views of two ethicists, Karol Wojtyła and Tadeusz Styczeń, in the belief that their views will turn out helpful in interpreting the dignitarian moment in the law. The analysis focuses on two main issues: the ontology of human action and the affirmation of the person. Examining the ontology of human

action, Rupniewski observes that man is not only the author and master of his own actions, but that his capacity for action is revealed in moral experience.<sup>8</sup> The act performed by an individual is unique and unrepeatable—it reveals who its subject, i.e., the person who accomplished it, is.<sup>9</sup> A proper act of the person involves two key elements: the person’s self-determination (conditioned by her self-possession and self-governance) and the transcendence of the person (expressed in her reason and freedom). However, a key condition for the transcendence and fulfillment of the person in action is truth. In other words, truth presents itself as a constitutive condition of the freedom proper to action.<sup>10</sup> Addressing the issue of the affirmation of persons, Rupniewski emphasizes that moral duty is fundamentally linked to the dignity of the human person.<sup>11</sup> In other words, moral duty is revealed in the direct, moral experience of the person and of her dignity. In the context of personalism, dignity is recognized as the primary criterion of moral duty. Only an action which manifests respect for the person can be deemed as morally right. According to Wojtyła’s personalistic norm, the most appropriate actions towards the person are those expressive of love.<sup>12</sup> The author of the reviewed book also emphasizes that human dignity is irreducible and that it is an existential condition of the personhood.<sup>13</sup> Furthermore, he formulates the Personalist Postulate which points to the greatness and dignity of the human person: “Before the law, persons are not regarded as replaceable specimens

<sup>6</sup> See *ibidem*, 32.

<sup>7</sup> See *ibidem*, 65–109.

<sup>8</sup> See *ibidem*, 78.

<sup>9</sup> See *ibidem*, 80.

<sup>10</sup> See *ibidem*, 89.

<sup>11</sup> See *ibidem*, 98.

<sup>12</sup> See *ibidem*, 97; see also Karol Wojtyła, *Love and Responsibility*, trans. Grzegorz Ignatik (Boston: Pauline Books & Media, 2013), 25.

<sup>13</sup> See *ibidem*, 93.

or as mere instances of some idea or type, but rather as having intrinsic importance, each standing as incommunicably his or her own.”<sup>14</sup>

The third chapter, “Law: The Status of Personhood and the Dignitarian Moment,”<sup>15</sup> attempts to elucidate human dignity in the sphere of law as the Principle of the Status of Personhood.<sup>16</sup> According to Rupniewski, the law recognizes certain radical capacities of human persons and prioritizes persons, or at least assigns special importance to them. The priority, or importance, is attributed to persons themselves, not to their capacity or accomplishment. This means that dignitarian protection should be provided not only to human individuals who manifest these capacities but also to those who (due to age or disability) are not capable of manifesting them. According to Rupniewski, the law should enable equal affirmation of all persons. He suggests that his theory—the Status of Personhood Theory—can justify such protection. The basis of this theory is the Principle of the Status of Personhood. It consists of three main dignitarian legal interests of human persons: the freedom from degradation (“law protects people against different forms of denying their most fundamental quality of ‘being human’”<sup>17</sup>), their capacity for self-determination in dynamic relations to truth (“the individual is an author of his own life; he is also an author of himself, since becoming such and such a person happens through his own actions”<sup>18</sup>), and the integrity of the person (“persons are characterized by the special dynamic unity in which different aspects of their lives are in constant mutual feedback but also find

the unity in complexity”<sup>19</sup>). The most important point in this chapter is the content of the principle in question itself: “Before the law, each person equally must be respected as an integrated whole, radically capable of self-determination, and striving towards fulfilment.”<sup>20</sup>

The concluding chapter, “Politics: Institutions and the Status of Personhood”<sup>21</sup> comprises an attempt to integrate the theoretical findings, in particular the Principle of the Status of Personhood, into a broader context of fundamental political–legal ideas. Rupniewski emphasizes that the principle has important implications. Firstly, it can be applied to individual persons (each person has a dignitarian standing). Secondly, the principle in question is neither individualistic nor intended as protection of individual freedom against external, unjustified state or societal interference. The proper significance of the principle relates to participation, and thus to the sphere in which individual persons accomplish their personhood or achieve fulfillment, which is a fundamental entitlement of every human person. Rupniewski argues that, according to the principle, “every human being, in a community mediated by the law, ought to have genuine opportunity of acting together with others in a way which recognizes and respects his individual subjectivity.”<sup>22</sup> He also adds that “the deepest intention of the PSP is ... to protect the basic standing which is the prerequisite of further conditions of individual personal fulfillment through genuine participation.”<sup>23</sup> Furthermore, Rupniewski notes that among the basic interests of human persons is public order and just law. In his opinion, the principle can play an important role within

<sup>14</sup> See *ibidem*, 71.

<sup>15</sup> See *ibidem*, 110–75.

<sup>16</sup> See *ibidem*, 110.

<sup>17</sup> *Ibidem*, 128.

<sup>18</sup> *Ibidem*, 136.

<sup>19</sup> *Ibidem*, 145.

<sup>20</sup> *Ibidem*, 159.

<sup>21</sup> See *ibidem*, 176–231.

<sup>22</sup> *Ibidem*, 185.

<sup>23</sup> *Ibidem*, 136.

the domain of law because it protects the basic interests of individual persons. Several arguments support this: (a) human beings are treated as rightfully and naturally setting their own ends and pursuing them; (b) human beings are treated as capable of self-determination, which involves following the truth; (c) human beings are equal in dignity, regardless of their factual state, and must not be treated as replaceable specimens, but as unrepeatably, irreducible individuals; (d) just law demands adequate responses to the human dignity of each person.<sup>24</sup> Ultimately, Rupniewski posits a strong thesis that the Principle of the Status of Personhood “protects concrete persons in their wholeness, in their particular internal and external conditions, and in their social involvements. And it does so without exceptions.”<sup>25</sup> Thus, when the principle is applied to adjudication, it serves as an indispensable component of justifying decisions that pertain to the basic dignitarian status of the human person.<sup>26</sup>

The analyses conducted by Rupniewski are interesting, but they raise several doubts. I will point out only some of them (they are closely related to each other). Firstly, the author assumes that the adopted methodological framework (weak metaphysical parsimony) makes it impossible for him to seek ultimate metaphysical explanations concerning human dignity. However, if we refer to the Personalist Postulate, it turns out that the content of the postulate embraces terms and expressions that require ultimate metaphysical justifications (e.g., “incommunicability”; “persons are not regarded as replaceable specimens”). The term “incommunicability” is closely related to the concept of dignity and the act of existence, particularly when considering the views of Thomas

Aquinas.<sup>27</sup> It is precisely the incommunicability of the person’s act of existence that prevents him or her from being regarded solely as a specimen of the *Homo sapiens* species. Secondly, the Principle of the Status of Personhood also creates certain problems. Rupniewski claims that the principle protects the dignity of all human beings regardless of whether they show the key characteristics of personhood (e.g., self-determination). However, the seriously ill, the unborn, or those who are in a vegetative state do not have the capacity for self-determination. Justifying the thesis that all human beings have dignity regardless of the qualities they manifest (e.g., the capacity for self-determination) requires reference to ultimate metaphysical principles. Thirdly, the author refers to the thought of Immanuel Kant and quotes passages on the dignity of persons from his writings. However, it must be remembered that Kantian are not the best choice if we seek to defend the thesis that all human beings have dignity. According to Kant, the foundation of personhood is not simply being human, but “having the power of rational agency.”<sup>28</sup> In short, according to Kant, it is not possible to defend the normative status of every human being.<sup>29</sup>

<sup>27</sup> See Marcin Ferdynus, “Is It True That All Human Beings Have Dignity?” *Nursing Philosophy*, no. 1(25) (2024): e12464; see also Thomas Aquinas, *De potentia*, in Thomae Aquinatis Opera omnia cum hypertextibus in CD-ROM, ed. Roberto Busa (Stuttgart: Frommann-Holzboog, 1996).

<sup>28</sup> Ariel Zylberman, “Human Dignity,” *Philosophy Compass*, no. 4(11) (2016): 205; see Immanuel Kant, *Groundwork for the Metaphysics of Morals*, trans. Mary Gregor (Cambridge: Cambridge University Press, 1998).

<sup>29</sup> See Marcin Ferdynus, “The End of Personhood Seems to Be Greatly Exaggerated,” *American Journal of Bioethics*, no. 1(24) (2024): 74–75.

<sup>24</sup> See *ibidem*, 194.

<sup>25</sup> *Ibidem*, 204.

<sup>26</sup> See *ibidem*, 220.

The normative status of the person can be reasonably discussed only once two thought strategies are distinguished. One of them involves recognizing that all human beings are persons, while the other involves recognizing that not all human beings are persons. However, the normative status of every human being can be defended either by recognizing the integration of nature in person<sup>30</sup> or by assuming that all human beings exist as rational natures.<sup>31</sup> Finally, it needs to be stressed that some strong claims (e.g., “dignity is irreducible;” “dignity is an existential condition of a person;” “only human beings are persons in a strong, ontological sense”) have been used by Rupniewski without sufficient theoretical justification. Therefore, it can

be presumed that the author does not follow his own methodological principles. On one hand, he claims that he does not seek ultimate metaphysical reasons to justify the central thesis of the book, while, on the other hand, he puts forward strong, ultimate metaphysical claims.

The difficulties indicated above do not undermine the value of the book. Rupniewski’s argument is not only engaging, but it is also inspiring and will certainly initiate further critical discussion regarding the place and role of human dignity in the law. The book may be of interest to academics and researchers working in the fields of philosophy, jurisprudence, ethics, and political science.

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<sup>30</sup> See Karol Wojtyła, *The Acting Person*, trans. Andrzej Potocki (Dordrecht: D. Reidel Publishing Company, 1979).

<sup>31</sup> See Robert Spaemann, *Persons: The Difference between “Someone” and “Something”*, trans. Oliver O’Donovan (Oxford: Oxford University Press, 2006).

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