

Session 2

Human Dignity, Physical Integrity, and the Rights of Husbands and Wives

OBJECTIVES:

- To explore the meaning of human dignity and how human rights protect and promote human dignity.
- To consider an individual's right to control her own body, in matters of safety, health, reproduction, and sexuality.
- To discuss whether marriage, and having children, changes the rights and responsibilities of women.

In This Session:

Human dignity is valued in all cultures, yet what it is exactly is hard to pinpoint. Frequently we understand the parameters of human dignity only when they get eroded. For instance, we intuit that forcing a woman to shave her head or a man to shave his beard is a violation of her/his human dignity (and frequently also a violation of her/his right to religion). It is not a coincidence that prisoners are frequently forced to shave; the violation of their dignity breaks their spirit and makes it easier to control them. In this session, we will read selections discussing human dignity and its connection to human rights. For the framers of the international human rights agreements, "inherent dignity" and human rights were equal pillars of human existence.

In the reading selections that follow, Jack Donnelly argues that human rights are a precondition for human dignity, while Diane Ayton-Shenker argues that the common value of human dignity is the foundation for human rights. The Preamble to the Universal Declaration of Human Rights (UDHR) suggests that human rights and human dignity are indivisible. In the group exercise, we will brainstorm what we think defines human dignity, how it is sustained, if it exists wherever human life exists, and whether human rights must protect it.

The observance and protection of human dignity is also profoundly linked to physical autonomy and the right of an individual to control her own body. Most people can agree that violations of one's physical body, from forced shaving or forced veiling/unveiling to rape or starvation, are egregious degradations of human dignity. Perhaps the worst violation of human dignity is slavery, where a person is reduced to chattel, his or her whole body owned and controlled by another. Human dignity and physical autonomy, the right

to own and control one's own physical self and actions, are two sides of the same coin. In this session, we will also consider rights that protect a person's physical safety and health and a person's right to do what she pleases with her own body so long as it does not harm another, including her sexual activity. And we will ask ourselves whether marriage and parenthood changes our human right to have sole control over our own bodies. Does pregnancy complicate a woman's right to make decisions about her own body? Does parenthood complicate a man or woman's right to travel and enjoy life outside his or her family responsibilities?

In the final reading selections, Arati Rao discusses how women throughout history have been literally and symbolically regarded as the repositories and guardians of culture, and because of this have suffered a great loss to their physical autonomy and human rights. Betty Friedan, in a 1969 speech, argues that a woman's physical autonomy is restored when she has the right and the power to decide when she will become a mother. Without that right, women are at the mercy of their biology, defined and controlled by their capacity or incapacity to breed. The drafters of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) dealt with the knotty issue of parents' rights in marriage and family relations, by ignoring women's biological differences. Regardless of biology, CEDAW affirms, women and men have "the same rights" including the same right to enter into marriage, choose a spouse, and choose the number and spacing of their children.

Reading Assignments:

On Protecting Dignity

Jack Donnelly

Human rights reflect – or at least analytically can be understood to reflect – a particular specification of certain minimum preconditions for a life of dignity in the contemporary world. But our detailed understanding of human dignity is shaped by our ideas and practices of human rights. And the practice of human rights can be seen as justified, in some ultimate sense, by its production of beings able to live a life of dignity. . . .

Human rights both specify forms of life that are worthy of beings with inherent moral worth and provide legal and political practices to realize a life of dignity that vindicates the inherent worth of the human person.

In other words, human rights insist that the inherent worth of human beings must not be left in an abstract philosophical or religious domain but rather must be expressed in everyday life through practices that respect and realize human rights.⁹

9 Jack Donnelly, "Protecting Dignity: An Agenda for Human Rights," in *Human Dignity and Human Rights*, 2009, p. 83, http://www.udhr60.ch/report/donnelly-HumanDignity_0609.pdf. Donnelly is the Andrew Mellon Professor at the Josef Korbel School of International Studies at University of Denver.

On the Challenge of Human Rights and Cultural Diversity

Diana Ayton-Shenker

There is an increased need to emphasize the common, core values shared by all cultures: the value of life, social order and protection from arbitrary rule. These basic values are embodied in human rights.

Traditional cultures should be approached and recognized as partners to promote greater respect for and observance of human rights.

Drawing on compatible practices and common values from traditional cultures would enhance and advance human rights promotion and protection. This approach not only encourages greater tolerance, mutual respect and understanding, but also fosters more effective international cooperation for human rights.

Greater understanding of the ways in which traditional cultures protect the well-being of their people would illuminate ***the common foundation of human dignity on which human rights promotion and protection stand***. This insight would enable human rights advocacy to assert the cultural relevance, as well as the legal obligation, of universal human rights in diverse cultural contexts. Recognition and appreciation of particular cultural contexts would serve to facilitate, rather than reduce, human rights respect and observance.

Working in this way with particular cultures inherently recognizes cultural integrity and diversity, without compromising or diluting the unquestionably universal standard of human rights. Such an approach is essential to ensure that the future will be guided above all by human rights, non-discrimination, tolerance and cultural pluralism.¹⁰

The Preamble to the Universal Declaration of Human Rights (UDHR)

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

¹⁰ Diana Ayton-Shenker, "The Challenge of Human Rights and Cultural Diversity," UN Background Note, published by the UN Department of Public Information DPI/1627/HR–March 1995, <http://www.un.org/rights/dpi1627e.htm>. Ayton-Shenker teaches Social Entrepreneurship at The New School in New York and is a Senior Fellow at Bard College's Globalization and International Affairs Program.

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

The General Assembly,

proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Group Exercise:

The UDHR sets out to respond to threats to human dignity, without actually defining what human dignity *is*. For this exercise, the group will brainstorm what human dignity is and form a consensus on a definition of human dignity.

Begin by asking the participants what they believe the meaning of human dignity is. Where does it come from? Does every person have it? Why or why not? How is it maintained? How can it be denied? How can it be protected? Ask a volunteer to record the answers on a board or large sheet of paper.

In the second part of this exercise, ask the participants to craft a definition of human dignity, refining and adding to it until the group agrees that it meets their idea of what human dignity is. If the group cannot agree on a single definition, then work with the participants to create more than one definition. Record the definition or definitions on a board or large sheet of paper to be referred to throughout the rest of the session.

Reading Assignments:

On the Politics of Gender and Culture

Arati Rao

No social group has suffered greater violation of its human rights in the name of culture than women. Regardless of the particular forms it takes in different societies, the concept of culture in the modern State circumscribes women's lives in deeply symbolic as well as immediately real ways. Historically, women have been regarded as the repositories, guardians, and transmitters of culture. Women represent the reproduction of the community. Women usually are the primary caregivers in the family and therefore the earliest inculcators of culture in the child. Through their clothing and demeanor, women and girls become visible and vulnerable embodiments of cultural symbols and codes. In addition, the primary identification of the woman with the family and home, in a problematic separation of "public" and "private" spheres of existence, contributes to her secondary status in the very realm where her future is debated and even decided: the public.¹¹

On A Woman's Civil Right

Betty Friedan

Excerpts

Am I saying that women must be liberated from motherhood? *No*, I am saying that motherhood will only be a joyous and responsible human act when women are free to make, with full conscious choice and full human responsibility, the decisions to become mothers. Then and only then, will they be able to embrace motherhood without conflict, when they will be able to define themselves not just as somebody's mother, not just as servants of children, not just as breeding receptacles, but as people for whom motherhood is a freely chosen part of life, freely celebrated while it lasts, but for whom creativity has many more dimensions, as it has for men. Then, and only then, will motherhood cease to be a curse and a chain for men, and for children. . . .

Am I saying that women have to be liberated from men? That men are the enemy? *No*. I am saying the men will only truly be liberated to love women and to be fully themselves when women are liberated to have a full say in the decisions of their lives and their society. . . .

This revolution cannot happen without radical changes in the family as we know it today; in our concepts of marriage and love, in our architecture, our cities, our theology, our politics, our art. Not that women are special. Not that women are superior. But these expressions of human creativity are bound to be infinitely more various and enriching when women and men are allowed to relate to each other beyond the strict confines of the *Ladies' Home Journal's* definition of the Mamma and Papa marriage.

11 Arati Roy, "The Politics of Gender and Culture in the International Human Rights Discourse," in *Women's Rights Human Rights*, Julie Peters and Andrea Wolper, eds., New York: **Routledge**, 1995, p. 169. Arati Rao has published numerous articles and essays on feminism and human rights.

If we are finally allowed to become full people, not only will children be born and brought up with more love and responsibility than today, but we will break out of the confines of that sterile little suburban family to relate to each other in terms of all of the possible dimensions of our personalities – male and female, as comrades, as colleagues, as friends, as lovers. And without so much hate and jealousy and buried resentment and hypocrisies, there will be a whole new sense of love. . . .

In this confrontation, we are making an important milestone in this marvelous revolution that began long before any of us were born and which still has a long way to go. . . .¹²

Article 16 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)¹³

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:
 - a. The same right to enter into marriage;
 - b. The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
 - c. The same rights and responsibilities during marriage and at its dissolution;
 - d. The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; . . .the interests of the children shall be paramount;
 - e. The same rights to decide freely and responsibly on the number and spacing of their children . . .;
 - f. The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children . . .;
 - g. The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
 - h. The same rights for both spouses . . . of the ownership, acquisition, management, administration, enjoyment and disposition of property
2. The betrothal and the marriage of a child shall have no legal effect, and . . . legislation shall . . . specify a minimum age for marriage. . . .

12 From a speech entitled “A Woman’s Civil Right” given by Betty Friedan in Chicago, Illinois, at the first national conference for the repeal of abortion laws (1969). Friedan (1921-2006) was an American writer (author of the groundbreaking *The Feminine Mystique*), activist, and feminist.

13 Excerpted from the Convention on the Elimination of All Forms of Discrimination against Women. Adopted and opened for signature, ratification, and accession by UN General Assembly resolution 34/180 of 18 December 1979. Entry into force 3 September 1981, in accordance with article 27(1). A fuller discussion of CEDAW, its origins, and its applications, follows in Sessions 3 and 12.

Questions for Group Discussion:

- Who has the right to decide what a woman does with her body – with her clothing, travel, choice of marriage partner, even sex?
- Do you think a woman’s right to determine for herself how she dresses, who her friends are, where she works, where she travels, and other similar choices should be shared with her spouse after she gets married? What sort of decisions should be her own, and what sorts of decisions, if any, should be made in consultation with her spouse?
- If marriage changes women’s rights and responsibilities, do you believe it does the same for men? If so, how?
- Do you believe married men have the right to sexual intimacy with their wives whenever they want it? Why or why not? Do women have that same right?
- Do you believe that motherhood changes women’s rights and responsibilities? Does fatherhood? In what ways are those rights and responsibilities similar?
- What rights should spouses have during marriage? What responsibilities?
- In what areas and for what reasons should society try to regulate family matters?

Group Exercise:

In this exercise, ask participants to review each of the rights in CEDAW’s Article 16 (see above) as a group. Ask volunteers to read each of the rights aloud, and then discuss each right separately. Ask the participants if each right is observed in their homes and in their communities, and whether it addresses the traditional obligations of both spouses.

Ask the participants to consider whether the marriages of their friends and family members reflect the principles in CEDAW’s Article 16. If they do, in what ways?