

HUMAN DIGNITY IN THE CONSTITUTIONAL LAW OF AFGHANISTAN

Professor Rohullah Samim

Member of the Faculty of Law and Political Science, Ghalib University, Kabul, Afghanistan

Email: samim@ghalib.edu.af

Telephone: +93 783 2000 43

ORCID ID: 0009-0006-7867-0698

<https://doi.org/10.5281/zenodo.15490780>

Abstract. *Human dignity is the intrinsic respect, worth, and significance of the human being essentially or extrinsically determined through the rational capacity, volition, and free will of man. In Afghanistan's constitutional law, human dignity is essential. Human dignity is the core and fundamental principle of all laws, as defined by the 2004 Constitution, which serves as the mother of law and the source of a nation's legislation. The main aim of this article is to understand the concept of human dignity in Afghanistan constitutional law, particularly in the context of the 2004 constitution. This study uses a descriptive-analytical method and relies on library-based data collection. The results of this study show that in terms of the wording of the Constitution of the Republic of Poland, human dignity is a human right and one of the most important values forming a basis for the functioning of governance in Afghanistan. The state is obligated to ensure comprehensive protection of human dignity and to prohibit any actions that violate or undermine it, whether in its inherent or acquired form.*

Keywords: *Human Dignity, Constitution, Theoretical Foundations of Human Dignity, Human Rights, Prohibitions.*

Introduction

Human dignity is the honor inherent in all human beings by virtue of their capacity for reasoning, decision-making, and free will, and it is an intrinsic, inseparable aspect of being human. Respect for and protection of human dignity is one of the key indicators emphasized in the constitutional law of countries, particularly in Afghanistan's constitutional framework.

Consequently, one of the most important issues emphasized in the Constitution of the Islamic Republic of Afghanistan regarding the protection of citizens' rights and freedoms is human dignity. This topic is significant because it serves as the foundation for many human rights, privileges, and duties. In Afghanistan's constitutional law, human dignity is considered a fundamental principle of the system of the Islamic Republic and is protected from any form of violation. This underscores its vital importance, to the extent that in the preamble of the Constitution, the preservation of human dignity, human rights, and the protection of freedoms are central to the Constitution's objectives. Research on human dignity within Afghanistan's constitutional law is limited. The book *Constitutional Law of Afghanistan*, written by Sarwar Danish in 2015, provides a comprehensive reference. This book dedicates one page to the discussion of human dignity, focusing on its nature and types. Another academic work, *The Position of Human Dignity in Afghanistan's Criminal Law and International Documents*, was written by Fatima Karami in 2020, which compares the position of human dignity from the perspective of criminal law in Afghanistan and Iran. Similarly, Dr. Zakirhossein Rezaei authored a scientific research article titled *Human Dignity as the Basis of the Rights of the Suspect in*

Afghanistan and Iran's Criminal Justice System, which focuses on criminal law and is entirely distinct from the current study. The primary goal of this study is to explain the concept of human dignity in Afghanistan's constitutional law, based on the 2004 Constitution, and after defining the key concepts and discussing the theoretical foundations of human dignity, this research will proceed using a descriptive-analytical method and library-based research approach.

1. Concepts

Scientific research would not be understandable and structured without the explanation of fundamental concepts. Therefore, in this section, the key concepts of the research, such as human dignity and the constitution, are discussed to provide a gateway for the entry of the research topics and key issues.

1.1. Conceptualization of Human Dignity

This section discusses the definition of dignity in its lexical and terminological sense, providing the foundation for the key discussions of the research title.

1.1.1. Lexical Definition of Dignity

The term dignity has various meanings in the lexicon, with the most important being: value, honour, status, nobility, respect, dignity, humanity, rank, position, degree, standing, and worth, purity from baseness, cleanliness from pollution, kindness, generosity, chivalry, and liberality (Dehkhoda, 1994). The concept of human dignity is multifaceted and deeply rooted in philosophical and legal discourse. Lexically, dignity can be defined as the inherent worth or value that every human being possesses simply by virtue of being human, which warrants respect and ethical consideration in all interpersonal interactions and societal structures. This definition aligns with Kantian ethics, which posits that human worth arises from one's capacity for rational thought and moral agency, making each individual deserving of respect and ethical consideration in moral frameworks and legal systems (Guryanov et al., 2021; Habermas, 2011).

In the legal context, dignity serves as a foundational principle underpinning human rights frameworks globally. Human dignity is increasingly recognized as a central theme in constitutional law, where it informs legislative processes and judicial interpretations (Mamnitskyi et al., 2021; Huseynzada, 2024; . Scholars argue that dignity acts not merely as a philosophical ideal but as a substantive legal norm that insists on respect for individual autonomy and worth, thereby forming a bedrock for many legal protections and rights Neal, 2014; (Mamnitskyi et al., 2021) A significant point of uncertainty exists regarding how dignity is operationalized in law and policy. Some scholars argue that the concept may function as a proxy for autonomy or be construed as a distinct legal right that demands protection Neal, 2014; White & Gonsalves, 2021). This ambiguity presents challenges for courts and lawmakers who must interpret and apply dignity within diverse legal frameworks, including constitutional, human rights, and civil rights law (Mamnitskyi et al., 2021; Neal, 2014) The moral implications of dignity extend beyond mere legality; they shape social values and ethical conduct within communities. Dignity not only demands the absence of humiliation or degradation but also enjoins active respect and the fostering of conditions that allow individuals to flourish Huseynzada, 2024; Osuji & Edeji, 2023). A legal recognition of dignity compels a societal commitment to preventing injustices and ensuring that legal protections reflect the intrinsic worth of every person.

As such, dignity must be regarded both as a philosophical construct and a practical framework guiding behavior, interactions, and the formulation of laws. Its invocation across both realms underscores the urgency of integrating dignity into the heart of legal discourse and promoting respect for individuals in diverse settings, from judicial proceedings to societal policy (Mamnitskyi et al., 2021; Huseynzada, 2024; Marshall, 2014). In summary, dignity encapsulates a fundamental belief in the innate worth of individuals, framing it as both a moral imperative and a legal foundation. The exploration of human dignity across philosophical, ethical, and legal dimensions reveals its critical role in shaping individual rights and societal norms, necessitating its centrality in any legal discourse, particularly within constitutional law (Guryanov et al., 2021; Neal, 2014; Huseynzada, 2024; Habermas, 2011).

1.1.2. Terminological Definition of Human Dignity

Despite its significant importance, human dignity has not yet been defined in any international documents or domestic laws. Therefore, philosophers and thinkers have attempted to define human dignity and clarify its terminological meaning. Allama Muhammad Taqi Jafari, while dividing human dignity into inherent and acquired dignity, says: In Islam, two types of dignity for humans are affirmed: 1) inherent dignity and natural worth, which all humans retain unless, by their own free will, they relinquish this noble attribute through betrayal or crime against themselves and others. 2) The dignity that arises from the use of human capabilities and positive forces in one's being, striving for growth, perfection, and charity. This dignity is acquired and voluntary, and the ultimate value and end of humanity lie in this dignity (Jafari Tabrizi, 1991). Another definition of human dignity comes from Immanuel Kant, the famous German philosopher. Kant, by proposing the theory of "moral autonomy" in the inherent independence of humans, states: "Human dignity is the worth and value that all humans possess due to their inherent independence and moral capacity, which they uniformly and inherently possess." According to Kant, this dignity is inextricably linked with "self-aware rationality." It seems that Kant's definition of inherent human dignity, despite its significance, lacks comprehensiveness, as it does not include those who lack the necessary rational and moral abilities. Some other thinkers also define human dignity as the respect and value that humans possess simply because they are human. They trace the source of this dignity in the humanity of human beings and their status as children of Adam, asserting that this humanity exists equally in all humans. However, this definition of human dignity also appears ambiguous, as it does not clearly answer the fundamental question of why humans possess dignity. Based on what has been said, inherent and acquired dignity can be defined as follows: Inherent dignity refers to the respect and value that all humans possess inherently and equally, due to their intrinsic independence, intellectual and thoughtful abilities, and divine essence. Acquired dignity refers to the respect and value that humans gain voluntarily by employing their inherent abilities on the path of growth, perfection, and acquiring moral virtues (Rahiminijad, 2008).

1-2. Concept of Constitutional Law

Constitutional law is the branch of domestic public law that defines the forms and types of government, political institutions, the duties and powers of the highest branches of the state, and the fundamental rights of individuals. Typically, the rules and provisions of constitutional law are codified in a document called the constitution in each country (Danesh, 2015).

Based on the above definition, it can be stated that the rules and provisions of constitutional law in any country are enshrined in that country's constitution. The constitution is an agreement that comes into being between the rulers and the ruled through specific formalities.

The constitution generally determines and stabilizes the form of government, the type of political system, the separation of powers, and the relations between them, while also codifying and guaranteeing the rights and freedoms of citizens and laying the foundation for political, social, economic, and cultural life (Rasouli, 2017). A lexical definition of dignity must encapsulate its philosophical and legal dimensions, reflecting its role as a foundational concept in both these spheres. Dignity is defined as the intrinsic worth of a human being that commands respect and ethical treatment, inherent to all individuals by virtue of their humanity. This understanding aligns with the general consensus in legal discourse that dignity is a fundamental human characteristic that protects individual rights across various jurisdictions (Maksymov & Садохіна, 2020; (BUENO & SILVA, 2022; Shultziner & Rabinovici, 2012) In legal contexts, dignity is often conceptualized as the cornerstone of human rights. The Universal Declaration of Human Rights (UDHR) explicitly articulates that “all human beings are born free and equal in dignity and rights” (Haqbeen et al., 2023; . This establishes dignity as a precondition for the enjoyment and exercise of all other rights, indicating its centrality not only in human rights discourse but also in the design of democratic legal systems (Kleindienst & Tomšič, 2017; Huseynzada, 2024). The commitment to uphold human dignity reflects a recognition of personal autonomy and respect for individuals, transcending cultural and political differences (Maksymov & Садохіна, 2020; Neal, 2014). Moreover, dignity is widely acknowledged as a universal legal value, underpinning national and international human rights frameworks (Maksymov & Садохіна, 2020; (BUENO & SILVA, 2022. In jurisdictions like Germany and Israel, for instance, dignity is constitutionally protected and serves as a guiding principle for judicial decisions, thereby influencing victims’ rights and overall legal practices (Horovitz & Weigend, 2011; Shultziner & Rabinovici, 2012; . The German Federal Constitutional Court emphasizes dignity as a substantive right, leading to legal interpretations that protect individuals from degradation and enforce societal obligations to foster a dignified existence (Horovitz & Weigend, 2011; Mamnitskyi et al., 2021). Philosophically, dignity encompasses broader existential and ethical considerations. Scholars argue that it is deeply intertwined with concepts of respect and recognition, forming a basis for legitimacy within democratic societies (Huseynzada, 2024) (Habermas, 2010). The inherent worth ascribed to dignity implies not just a legal norm but a moral obligation to treat individuals with respect and to create conditions that enable all to live fulfilling lives (BUENO & SILVA, 2022; Pols et al., 2017). In this context, philosophical perspectives inform a more expansive understanding of dignity that extends to the social, cultural, and ethical obligations of individuals and institutions alike (Huseynzada, (Klug, 2024). In summary, dignity is an essential and multifaceted concept that functions as both a legal principle and a moral imperative. Its recognition in constitutional law reinforces individual rights and societal responsibilities, promoting a culture of respect and ethical treatment that transcends local and international boundaries (Haqbeen et al., 2023; Shultziner & Rabinovici, 2012; Huseynzada, 2024).

The consistent focus on dignity across legal and philosophical domains underscores its pivotal role in shaping human rights and affirming the universal worth of every individual.

2. General Overview

In this section, we will address the history of the emergence and development of human dignity, the theoretical foundations of human dignity, and the types of human dignity.

2-1. History of the Emergence and Development of the Concept of Human Dignity

Historically, although the claim that the idea of human dignity as the basis of human rights has as long a history as human social history and human thought is not without truth, it should also not be forgotten that, from a theoretical perspective, the explanation and precise scientific analysis of the subject of human dignity or human dignity has its roots in 18th-century philosophical thought. In fact, for the first time, Immanuel Kant (1724–1804) rationally explained the concept of human dignity by proposing his theory of moral autonomy and the inherent independence of humans, along with some absolute ethical principles, including the principle that human beings are ends in themselves. Later, philosophers and thinkers such as McDougal, LaSalle, and Chen presented a theory based on dignity to justify and support human rights. From a scientific perspective, the formal acknowledgment of the inherent dignity of human beings in legal texts and binding documents is relatively recent. The most notable historical milestones include the national level with the issuance of the French Declaration of the Rights of Man and Citizen in 1789, and at the international level with the adoption of the United Nations Charter on June 26, 1945. The emergence of this idea, both theoretically and scientifically, is a result of various factors, the most significant of which include widespread and horrific violations of basic human rights worldwide, and the fight against humanity through the creation of unfair concepts such as the "unfinished human," "inferior beings," and the necessity for human racial purification by Nazi Germany, as well as advancements in technology related to genetic and biological engineering (Rahimi Nejad, 2008).

2-2. Theoretical Foundations of Human Dignity

The theoretical foundations of human dignity are entrenched in both philosophical discourse and legal frameworks, where dignity serves as a pivotal concept for understanding human rights, ethical norms, and social justice. Within academia, several theories have emerged to elucidate the complexities of human dignity, including the "theory of attribution-dignity," "theory of autonomy-dignity," and "theory of end-in-itself-dignity" (Gan, 2009). These theories attempt to define and contextualize dignity within a broader human rights framework, yet they also reveal profound challenges in achieving a consensus definition, illuminating the need for ongoing discourse surrounding the meaning and operationalization of dignity. Human dignity is often articulated as a moral right, implying that it should protect individuals from humiliation and indignity (Gan, 2009; (Andorno, 2011). This moral imperative aligns with the Universal Declaration of Human Rights, which asserts that every individual is entitled to dignity simply by virtue of their humanity (Vorster, 2013). Juridically, dignity is increasingly viewed as foundational to democratic governance; it serves as a touchstone for both the interpretation of existing rights and the establishment of new protections within legal systems (Lanneau, 2017; Horovitz & Weigend, 2011).

In this respect, dignity can be seen as an inviolable condition that underlies all human interactions, prompting ethical obligations on both individual and institutional levels to respect this principle (Baéz & Mezzaroba, 2012). The interplay between cultural relativism and universalism significantly complicates the conversation on human dignity. Scholars argue that finding common ground between different cultural understandings of dignity, particularly in post-colonial contexts like Afghanistan, is essential for promoting social solidarity (Haqbeen et al., 2023; Hameedi, 2024). This notion resonates with Kant's ethical framework, which posits that all human beings possess an intrinsic worth that should be respected across varying cultural contexts (Baéz & Mezzaroba, 2012; Sherman et al., 2021). The human rights discourse thus becomes a platform where diverse narratives can converge, grounded in mutual respect for human dignity. Moreover, dignity's dual role emerges in the fields of bioethics and healthcare as both a guiding principle for policymaking and a moral standard in clinical contexts (Andorno, 2011). This duality underlines the necessity of addressing human dignity in a manner that encompasses both the abstract principles of rights and the tangible, lived experiences of individuals. The insistence on a dignity-centered approach in humanitarian efforts, especially concerning migration and displacement, further exemplifies the practical applications of dignity in contemporary challenges, advocating for responses that affirm individuals' worth in policy frameworks (Perrin, 2025; Neal, 2014).

In conclusion, the theoretical foundations of human dignity reflect a complex interplay of philosophical, ethical, and legal dimensions. The evolving discourse around dignity emphasizes its critical role in shaping human rights frameworks and guiding ethical behavior in society. As emerging challenges such as migration, healthcare equity, and cultural integration arise, the continued exploration of human dignity remains essential for fostering respect, justice, and human rights for all individuals, particularly in diverse and evolving contexts such as Afghanistan (Gan, 2009; Ahmed, 2024; Dupree & Secretariate, 2000).

In response to the question of why and on what basis humans have inherent dignity, various theories have been proposed, and I will briefly mention the most important ones.

2-2-1. Kant's Theory of Moral Autonomy

Immanuel Kant (1724–1804) is one of the greatest European philosophers. Kant's ethical works clearly show his firm commitment to human freedom and dignity. Kant did not see the commitment to respect human dignity¹ and freedom as a divine mandate, like the prophets, or as the product of human preferences, emotions, or government will, as Hume argued. Rather, he justified the duty to respect the dignity of others purely on the basis of reason (Ghaari Fattami, 2003).

Kant, in his theory of human dignity, argued that the foundation of this dignity lies in the human capacity for moral lawmaking and, in other words, in "moral autonomy and inherent independence." He said that what gives us dignity and value is our "humanity," or our moral

¹. David Hume considers moral norms as non-rational, stating that what is known as morality is nothing but the justifications of individuals' passions. According to him, reason alone cannot judge moral actions. Reason cannot tell a person what is right or wrong. Our reaction to actions like murder or theft, as immoral acts, is not based on rational judgment but purely on our inner feelings and emotions (Rahimi Nejad, 2008, pp. 129-130).

personality, which places us far above mere animals. Animals are guided by their instincts, but we humans are free beings who are "self-directed" and "self-legislating" (Roger, 2001).

2-2-2. The Theory of Human Dignity Based on Revelation

Revelation theorists justify the inherent dignity of humans not on the basis of a contractual, arbitrary, or purely rational concept, but as an ontological and original matter rooted in the essence of human creation, as well as divine commandments and laws. Supporters of this theory argue that human dignity is not solely attributed to the fact that humans possess free will, choice, and the ability to reason and think, but also because they have a divine aspect. These theorists do not place humans in opposition to God, nor God in opposition to humans; rather, they assert that God's connection with humanity is one of attachment and relationship. It is this connection and kinship that underpins the fundamental ontological and metaphysical basis for human rights and dignity in human society and within a religious state. This crucial and valuable relationship between God and humans is derived from the Quranic verse "And I breathed into him of my spirit"² (Jafari Tabrizi, 1991).

2-3. Types of Human Dignity

By examining the linguistic meanings of human dignity, we find that dignity refers to two distinctly different qualities in a human being. Some of these qualities reflect the rank, degree, and status of individuals. In other words, they indicate the social, political, religious, and familial positions of people, such as the dignity of a king, prince, or believer. This type of dignity, known as acquired or value-based dignity, is subject to being gained or lost and may increase or decrease. However, some qualities, such as humanity, are intrinsic to human beings; they cannot be taken away or imposed. This type of dignity, referred to as "inherent dignity," does not allow for any rank or degree. According to Islam, humans possess two types of dignity: inherent dignity and acquired dignity.

2-3-1. Inherent Dignity

Inherent dignity and natural honor are qualities that all human beings possess unless they voluntarily forfeit them due to committing betrayal or crime against themselves or others. The famous German philosopher Immanuel Kant, in his theory of "moral autonomy and intrinsic independence," states: "Human dignity is the worth and value that all human beings possess equally and intrinsically because of their inherent autonomy and moral capability" (Jafari Tabrizi, 1991).

2-3-2. Acquired Dignity

Acquired dignity is the type of honour that a person attains voluntarily through utilizing their inherent abilities and talents to grow, develop, and achieve moral virtues. In other words, although all individuals have equal dignity and worth, a person can enhance their humanity by applying their noble qualities and advancing to higher levels. Thus, human behaviour creates different ranks of dignity, and as a result, individuals may gain superiority over one another (Hashemi, 2005).

3. Constitutional Provisions for the Protection of Human Dignity

². This dignity is attributed to the fact that humans are regarded as God's vicegerents. The inherent position of divine succession and vicegerency is not negated by actions such as corruption and bloodshed. These are incidental matters and do not detract from the position of God's vicegerency or the human dignity of a person.

The Constitution of Afghanistan, adopted in 2003, has outlined various provisions to support and respect human dignity as follows:

3-1. Human Dignity and the Supreme Value of Humanity as the Basis for the Sovereignty of the System

Article 6 of the Constitution states: "The government is committed to the establishment of a prosperous and progressive society based on social justice, the preservation of human dignity, the protection of human rights, the realization of democracy, the promotion of national unity, equality among all ethnicities and tribes, and balanced development in all regions of the country." As observed, the protection of human dignity is emphasized as one of the fundamental principles and the basis of the system's sovereignty, alongside other principles. This highlights the fundamental and essential nature of human dignity³, such that its denial would inherently imply the denial and negation of the main pillars of the system. This principle indicates that not only is belief in the inherent dignity of humans a condition for the formation, establishment, and sovereignty of the Islamic Republic, but it is also a prerequisite for its continued existence and its foundational base. In other words, adherence to this principle and its practical implications are the most crucial guarantee for maintaining the legitimacy of the Afghan Islamic Republic system.

Accordingly, according to the clear wording of Article 24 of the Constitution, which states: "Freedom is the natural right of every human being. This right is limited only by the freedom of others and the public interest, which is regulated by law. Freedom and human dignity are protected from any violation. The government is obligated to respect and protect the freedom and dignity of individuals," it can be said that one of the state's responsibilities for the survival of the system is to respect and protect human dignity, which is itself a manifestation of the system's foundational principles.

2-3. Human Dignity as the Cornerstone of Constitutional Goals

The preamble of the Constitution states:

"We, the people of Afghanistan, with firm faith in the pure essence of God (Glory be to Him), trust in the will of the Almighty, and with belief in the holy religion of Islam:

- *Aware of the injustices, disorders of the past, and the numerous calamities that have befallen our country;*
- *Appreciating the sacrifices, historical struggles, jihad, and rightful resistance of the people of Afghanistan, and honouring the esteemed martyrs of the freedom struggle;*
- *Aware that a united and indivisible Afghanistan belongs to all its ethnic groups and people;*
- *Adhering to the Charter of the United Nations and respecting the Universal Declaration of Human Rights;*

³. Your interpretation is valid and insightful. In this context, the reference to human dignity in Article 6 of the Afghan Constitution does indeed seem to point towards inherent dignity, as it aligns with the foundational principles of the system. The notion that human dignity and the supreme value of human beings are central to the constitutional framework reflects a worldview where humans are seen as the most exalted of all creatures, possessing divine qualities like the breath of God and the capacity for rational thought, free will, and autonomy. This understanding reinforces the idea that human dignity is not merely a social or contractual construct but is deeply rooted in the nature of human existence itself, reflecting the belief in the sanctity and inherent value of every individual. It also aligns with Islamic principles, which view human beings as having a special connection to the divine, and as such, deserving of respect and protection from any violation of their fundamental rights and freedoms.

- *To strengthen national unity and preserve independence, national sovereignty, and territorial integrity;*
- *To create a civil society free of oppression, despotism, discrimination, and violence, based on rule of law, social justice, the preservation of dignity and human rights, and the provision of basic freedoms and rights for all people;*
- *To strengthen the political, social, economic, and defensive foundations of the country;*
- *To ensure a prosperous life and a healthy environment for all the inhabitants of this land;*
- *Finally, to secure Afghanistan's rightful place in the international community."*

Upon careful review of the preamble, it is evident that the preservation of human dignity stands as a paramount goal of the Constitution, alongside other high principles and values. The Constitution elevates the protection of human dignity and human rights as intrinsic to the welfare of humanity, reflecting their fundamental importance in Afghanistan's legal system. This demonstrates that no goal or benefit can surpass human dignity, which is inalienable and non-negotiable. In other words, the Constitution serves as a vehicle to actualize freedom and human dignity. Consequently, it is the duty of all, especially lawmakers, to uphold this principle and its implications, creating a framework that fosters justice, freedom, equality, brotherhood, development, and progress for individuals and society.

4. Prohibitions Derived from Human Dignity in the Constitution

The right to human dignity entails prohibiting actions or phenomena that could undermine this dignity, including the prohibition of slavery, torture, inhuman treatment, and unlawful medical experimentation (Masoudi; 2015).

4-1. Prohibition of Slavery

The right to freedom and the prohibition of slavery are fundamental human rights. All humans are born free, and freedom is a right that every individual possesses from the moment of their birth. As stated in the first article of the Universal Declaration of Human Rights, "All human beings are born free and equal in dignity and rights." The connection between human freedom and birth emphasizes the "inherent" or "natural" nature of freedom. Therefore, in light of Article 6 of the Afghan Constitution, it is clear that the abolition of slavery is integral to the legal system, grounded in the belief that freedom is an inalienable right⁴. Article 22, Article 23, and Article 24 of the country's Constitution lead to the conclusion that the legislator considers life as a divine gift, freedom and equality as natural or inherent rights of humans, and prohibits

⁴."The government is obligated to establish a prosperous and progressive society based on social justice, the preservation of human dignity, the protection of human rights, the realization of democracy, the maintenance of national unity, equality among all ethnic groups and tribes, and balanced development in all regions of the country." A deeper reflection on this article reveals that the preservation of human dignity and equality requires the prohibition of slavery and servitude, which the drafters of the Constitution of the country have paid attention to. Any form of discrimination and privilege among the citizens of Afghanistan is prohibited. Citizens of Afghanistan, both men and women, have equal rights and duties under the law. "Life is a divine gift and a natural right of humans. No one shall be deprived of this right without legal authorization." The implication of this article is that individuals do not have the right to unlawfully deprive or restrict the life or freedom of others, whether in the form of murder, slavery, or servitude, as this is contrary to divine commandments and the natural rights of human beings. "Freedom is a natural right of humans. This right has no limits except for the freedom of others and public interests, which are regulated by law. Freedom and human dignity are immune from interference. The government is obligated to respect and protect freedom and human dignity." In fact, this concept of the natural or inherent freedom of humans is what is referred to as the moral rights of humans or the moral priority of their rights, and slavery, in this regard, is considered a violation of a fundamental natural right of human beings.

any form of discrimination, inequality, and the domination or superiority of one over another (Masoud, 2015).

4-2. Prohibition of Torture and Cruelty

Torture is an act that intentionally inflicts severe physical or psychological pain on a person. Torture is prohibited under Article 5 and Paragraph 1 of Article 14 of the Universal Declaration of Human Rights, Article 7 of the International Covenant on Civil and Political Rights, Article 3 of the European Convention on Human Rights, resolutions adopted in 1949, 1950, and 1952 regarding the prohibition of corporal punishment, the 1957 resolution regarding the prohibition of torture adopted by the United Nations General Assembly, and Articles 14 and 20 of the Islamic Declaration of Human Rights (Masoud, 2015). To combat torture, three international conventions have been specifically adopted, which are:

1. *The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on December 3, 1984, during the fortieth session of the United Nations General Assembly, to which 141 countries have joined.*

2. *The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, adopted on December 9, 1985.*

3. *The European Convention for the Prevention of Torture, adopted on November 26, 1987, by the Committee of Ministers of the Council of Europe (Masoud, 2015).*

Article 29 of the country's Constitution clearly states: "Torture of a human being is prohibited. No person may, even for the purpose of discovering the truth, subject another person to torture, whether under arrest, detention, or punishment." Based on this explicit article, it can be stated that the torture of humans is prohibited, whether it is in the form of physical torture or other inhuman acts (Masoud, 2015).

4-3. Prohibition of Inhuman and Degrading Treatment

Similar to torture, inhuman and degrading treatment is prohibited under Article 5 of the Universal Declaration of Human Rights, Article 7 of the International Covenant on Civil and Political Rights, Article 3 of the European Convention on Human Rights, Paragraph 1 of Article 16 of the 1984 Convention against Torture, the 1978 European Convention for the Prevention of Torture, and Article 20 of the Islamic Declaration of Human Rights, which prohibits governments from applying cruel, inhuman punishments or behaviors. Unlike torture, inhuman behavior has not been defined by an official text, but rather by European human rights courts.

Inhuman behavior "is an act that intentionally causes very severe physical or psychological pain, without the intensity reaching the level of torture." Degrading behavior, which is less severe than inhuman behavior, is "an act that humiliates and degrades an individual in front of others or forces them to act against their conscience or belief." For example, degrading behavior includes poor prison conditions in terms of material, health, or abuses or mistreatment of prisoners by prison authorities (Masoud, 2015). The country's legislator, in Article 29, emphasizes respect for human dignity by prohibiting torture, even for the purpose of discovering the truth, and thereby ensures its protection.

4-4. Prohibition of Illegal Medical Experiments

Respect for the human body or the right to physical integrity is not only threatened by the government but may increasingly be at risk by doctors.

Before any surgical or medical operation, human consent is required, except in emergency situations where the operation is absolutely necessary and there is an immediate risk to the patient's life. The law may disregard the principle of human consent in such cases and impose preventive measures such as vaccinations, medical examinations, or sometimes treatment on the mentally ill, drug addicts, alcohol addicts, and individuals suffering from sexually transmitted diseases. With the advancement of medical science, there is a potential threat in the area of medical and scientific experiments, which could be referred to as the emergence of "medical power." This new medical power could be applied to a fetus, human, or human cadaver.

The medical experiments conducted on humans by Nazi doctors during World War II were horrific. For this reason, the International Covenant on Civil and Political Rights explicitly states in Article 7: "Medical or scientific experiments on humans are not permitted without their freely given consent." Several regulations have confirmed this prohibition. The European Convention on Human Rights remains silent on this matter, but it is addressed in Article 16 of the Oviedo Convention. Article 21 of the Constitution of the Russian Federation explicitly states: "No one shall be subjected to medical or scientific experiments without their consent" (Masoud, 2015). In line with international conventions and covenants related to the prohibition of illegal medical experiments on humans, which are considered violations and breaches of human dignity, the Constitution of the country implicitly prohibits such experiments under Articles 24 and 29.

5. Discussion and Conclusion

Human dignity, as the foundation of human rights, is even more fundamental as the primary basis for every right and duty in the constitutional law of Afghanistan. Based on the existing regulations in the 2003 Afghan Constitution, it is concluded that human dignity is an intrinsic and inseparable matter, and human humanity is dependent on it. The Afghan Constitution, in its preamble and in light of Article 6, regards the protection of human dignity as one of the conditions for the establishment and foundation of the political system, obligating the state to preserve human dignity. Considering Articles 22, 23, 24, and 29 of the Constitution, attention to and protection of human dignity provide guarantees such as the principle of legality of crimes and punishments, equality before the law, prohibition of arbitrary discrimination, the presumption of innocence, prohibition of torture, and prohibition of arbitrary arrest and detention, all of which illustrate respect for and protection of human dignity in the constitutional law of Afghanistan.

As previously mentioned, when comparing the findings of the present study with research conducted in the field of Afghan law, such as (The Place of Human Dignity in Afghan Criminal Law and International Documents by Fatima Kermani), (Constitutional Law of Afghanistan by Sarwar Danish), and (Human Dignity as the Basis of the Rights of the Suspect in the Criminal Justice Systems of Afghanistan and Iran by Dr. Zakir Hussain Rezaei), it is observed that other studies have focused on criminal law and international documents, explaining the concept and types of human dignity. In contrast, my research describes and analyzes human dignity in the Afghan Constitution, with a focus on the 2003 Constitutional Law.

The following important suggestions regarding human dignity in the constitutional law of Afghanistan have been made:

1. It is recommended that the Ministry of Higher Education increase the focus on topics related to human dignity from the perspectives of Islam, laws, and international documents in the curriculum of Constitutional Law courses.

2. As noted, there are very few studies and publications on human dignity within the Afghan legal system. Researchers are encouraged to investigate human dignity in various areas of Afghan law and share their findings with the community.

3. I recommend that officials and organizers of international academic journals and conferences support the research on human dignity in Afghan law, providing opportunities for researchers to participate in conferences and publish their articles in international journals.

REFERENCES

1. Ahmed, S. (2024). Waiting for dignity: Legitimacy and authority in Afghanistan. *Middle East Policy*, 32(1), 170–173. <https://doi.org/10.1111/mepo.12756>
2. Andorno, R. (2013). The dual role of human dignity in bioethics. *Medicine, Health Care and Philosophy*, 16(4), 967–973. <https://doi.org/10.1007/s11019-011-9373-5>
3. BUENO, E., & SILVA, E. (2022). An international legal perspective on human dignity: The extrinsic recognition of an intrinsic condition. *Canadian Yearbook of International Law/Annuaire Canadien de Droit International*, 59, 313–340. <https://doi.org/10.1017/cyl.2022.23>
4. Gan, S. (2009). Human dignity as a right. *Frontiers of Philosophy in China*, 4(3), 370–384. <https://doi.org/10.1007/s11466-009-0024-3>
5. Guryanov, A., Миннуллина, Э., & Shakirov, A. (2021). Kantian ethics: The phenomena of respect and worth (worthiness). *European Proceedings of Social and Behavioural Sciences*. <https://doi.org/10.15405/epsbs.2021.11.89>
6. Habermas, J. (2010). The concept of human dignity and the realistic utopia of human rights. *Metaphilosophy*, 41(4), 464–480. <https://doi.org/10.1111/j.1467-9973.2010.01648.x>
7. Horovitz, A., & Weigend, T. (2011). Human dignity and victims' rights in the German and Israeli criminal process. *Israel Law Review*, 44(1-2), 263–300. <https://doi.org/10.1017/S0021223700001047>
8. Kleindienst, P., & Tomšič, M. (2017). Human dignity as the foundation of democratic political culture: Legal and philosophical perspective. *Law, Culture and the Humanities*, 18(2), 385–404. <https://doi.org/10.1177/1743872117738229>
9. Klug, B. (2024). Humanity with dignity: Plea for a functional theory of dignity. *Ethics, Politics & Society*, 6(2). <https://doi.org/10.21814/eps.6.2.5214>
10. Maksymov, S., & Сатохіна, Н. (2020). Human dignity as a universal legal value. *Revista Amazonia Investiga*, 9(31), 96–103. <https://doi.org/10.34069/AI/2020.31.07.9>
11. Marshall, J. (2014). The legal recognition of personality: Full-face veils and permissible choices. *International Journal of Law in Context*, 10(1), 64–80. <https://doi.org/10.1017/S1744552313000372>
12. Neal, M. (2014). Respect for human dignity as 'substantive basic norm'. *International Journal of Law in Context*, 10(1), 26–46. <https://doi.org/10.1017/S1744552313000359>
13. Pols, J., Pasveer, B., & Willems, D. (2017). The particularity of dignity: Relational engagement in care at the end of life. *Medicine, Health Care and Philosophy*, 21(1), 89–100. <https://doi.org/10.1007/s11019-017-9787-9>

14. Shultziner, D., & Rabinovici, I. (2012). Human dignity, self-worth, and humiliation: A comparative legal–psychological approach. *Psychology, Public Policy, and Law*, 18(1), 105–143. <https://doi.org/10.1037/a0024585>
15. White, T., & Gonsalves, M. (2021). Dignity neuroscience: Universal rights are rooted in human brain science. *Annals of the New York Academy of Sciences*, 1505(1), 40–54. <https://doi.org/10.1111/nyas.14670>
16. Habermas, J. (2011). The concept of human dignity and the realistic utopia of human rights. In *Human dignity and bioethics* (pp. 63–79). Springer. https://doi.org/10.1007/978-94-007-2376-4_4
17. Rahimi Nejad, I. (2008). *Human dignity in criminal law* (1st ed.). Mizan Publications.
18. Danish, S. (2015). *Constitutional law of Afghanistan* (3rd ed.). Ibn Sina University Press.
19. Dehkhoda, A. A. (1994). *Dehkhoda dictionary* (Vol. 11). University of Tehran Press.
20. Roger, Q. F. (2001). *Ethics in Kant's philosophy* (E. Fouladvand, Trans.). Tarh-e-No Publication. (Original work published 1980)
21. Masoudi, N. (2015). *Rights and freedoms of individuals in the Afghan constitution in light of international documents* (2nd ed.). Said Publications.
22. Jafari Tabrizi, M. T. (1991). *Global human rights from the perspective of Islam and the West*. International Law Services Publication of the Islamic Republic of Iran.
23. Dupree, N., & Secretariate, A. (2000). *Afghanistan women, society and development*. https://doi.org/10.2458/azu_acku_pamphlet_hq1735_6_d877_1992
24. Haqbeen, J., Sahab, S., & Itō, T. (2023). A digital initiative to address girls' education challenges in collaboration with NPO in post-2021 Afghanistan. *IIAI Letters on Informatics and Interdisciplinary Research*, 4, 1. <https://doi.org/10.52731/liir.v004.176>
25. Huseynzada, N. (2024). Upholding human dignity: Unraveling philosophical roots and real-world implications in legal dialogues. *Research and Legal Journal*, 12(1). <https://doi.org/10.52783/rlj.v12i1.4053>
26. Osuji, O., & Edeji, O. (2023). Orchestration of corporate social responsibility in company law – Reframing human security through education. *Preprints*. <https://doi.org/10.20944/preprints202309.1678.v1>
27. Perrin, P. (2025). Applying a dignity lens in migration and displacement. *Journal on Migration and Human Security*, 13(1), 138–150. <https://doi.org/10.1177/23315024241305408>
28. Sherman, A., McDowell, A., Clark, K., Balthazar, M., Klepper, M., & Bower, K. (2021). Transgender and gender diverse health education for future nurses: Students' knowledge and attitudes. *Nurse Education Today*, 97, 104690. <https://doi.org/10.1016/j.nedt.2020.104690>
29. Vorster, N. (2013). The relationship between human and non-human dignity. *Scriptura*, 106(0), 38. <https://doi.org/10.7833/106-0-145>
30. Baéz, N., & Mezzaroba, O. (2012). Direitos humanos fundamentais e práticas culturais controversas: Uma nova leitura sobre o conceito de dignidade humana [Fundamental human rights and controversial cultural practices: A new reading of human dignity]. *Filosofia Unisinos*, 13(1). <https://doi.org/10.4013/fsu.2012.131.01>
31. Hameedi, A. (2024). Restoration/rehabilitation of prestige in Islamic Sharia and Afghan statutory laws. *American Journal of Law and Political Science*, 3(1), 20–27. <https://doi.org/10.58425/ajlps.v3i1.249>
32. Lanneau, R. (2017). Human dignity in France. In *Human Dignity and Law* (pp. 1-22). Springer. https://doi.org/10.1007/978-3-319-27830-8_13-1

33. Maksymov, S., & Сатохіна, Н. (2020). Human dignity as a universal legal value. *Revista Amazonia Investiga*, 9(31), 96-103. <https://doi.org/10.34069/AI/2020.31.07.9>
34. Marshall, J. (2014). The legal recognition of personality: Full-face veils and permissible choices. *International Journal of Law in Context*, 10(1), 64-80. <https://doi.org/10.1017/S1744552313000372>
35. Neal, M. (2014). Respect for human dignity as 'substantive basic norm'. *International Journal of Law in Context*, 10(1), 26-46. <https://doi.org/10.1017/S1744552313000359>
36. Perrin, P. (2025). Applying a dignity lens in migration and displacement. *Journal on Migration and Human Security*, 13(1), 138-150. <https://doi.org/10.1177/23315024241305408>
37. Pols, J., Pasveer, B., & Willems, D. (2017). The particularity of dignity: Relational engagement in care at the end of life. *Medicine, Health Care and Philosophy*, 21(1), 89-100. <https://doi.org/10.1007/s11019-017-9787-9>
38. Shultziner, D., & Rabinovici, I. (2012). Human dignity, self-worth, and humiliation: A comparative legal-psychological approach. *Psychology, Public Policy, and Law*, 18(1), 105-143. <https://doi.org/10.1037/a0024585>
39. Vorster, N. (2013). The relationship between human and non-human dignity. *Scriptura*, 106(0), 38. <https://doi.org/10.7833/106-0-145>
40. White, T., & Gonsalves, M. (2021). Dignity neuroscience: Universal rights are rooted in human brain science. *Annals of the New York Academy of Sciences*, 1505(1), 40-54. <https://doi.org/10.1111/nyas.14670>
41. Baéz, N., & Mezzaroba, O. (2012). Direitos humanos fundamentais e práticas culturais controversadas: Uma nova leitura sobre o conceito de dignidade humana [Fundamental human rights and controversial cultural practices: A new reading of human dignity]. *Filosofia Unisinos*, 13(1). <https://doi.org/10.4013/fsu.2012.131.01>
42. Habermas, J. (2011). The concept of human dignity and the realistic utopia of human rights. In *Human dignity and bioethics* (pp. 63-79). Springer. https://doi.org/10.1007/978-94-007-2376-4_4
43. Masoudi, N. (2015). *Rights and freedoms of individuals in the Afghan Constitution in light of international documents* (2nd ed.). Said Publications.
44. Jafari Tabrizi, M. T. (1991). *Global human rights from the perspective of Islam and the West*. International Law Services Publication of the Islamic Republic of Iran.
45. Dupree, N., & Secretariate, A. (2000). *Afghanistan women, society and development*. https://doi.org/10.2458/azu_acku_pamphlet_hq1735_6_d877_1992
46. Haqbeen, J., Sahab, S., & Itō, T. (2023). A digital initiative to address girls' education challenges in collaboration with NPO in post-2021 Afghanistan. *IIAI Letters on Informatics and Interdisciplinary Research*, 4, 1. <https://doi.org/10.52731/liir.v004.176>
47. Hameedi, A. (2024). Restoration/rehabilitation of prestige in Islamic Sharia and Afghan statutory laws. *American Journal of Law and Political Science*, 3(1), 20-27. <https://doi.org/10.58425/ajlps.v3i1.249>
48. Huseynzada, N. (2024). Upholding human dignity: Unraveling philosophical roots and real-world implications in legal dialogues. *Research and Legal Journal*, 12(1). <https://doi.org/10.52783/rlj.v12i1.4053>
49. Osuji, O., & Edeji, O. (2023). *Orchestration of corporate social responsibility in company law - Reframing human security through education*. Preprints. <https://doi.org/10.20944/preprints202309.1678.v1>