

## Two Challenges for Dignity as an Expressive Norm

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**Abstract** The concept of dignity figures prominently in legal and moral discussion on such topics as human rights, euthanasia, abortion, and criminal punishment. Yet the notion has been criticized for being indeterminate and either insufficient or redundant (or both) in justifying the kinds of legal and moral rights and views its proponents use it to vindicate. The criticisms have inspired some novel conceptions of dignity. One of them is Tarunabh Khaitan's proposal that dignity should be understood as an expressive norm. In this article, I assess Khaitan's suggestion. I maintain that it faces two challenges that its advocates should be able to solve for the proposal to be plausible.

**Keywords** Autonomy · Dignity · Expressive norm · Human rights · Jurisprudence

### Introduction

The notion of dignity figures prominently in legal and moral discussion on such topics as, for instance, human rights, euthanasia, abortion, and criminal punishment. Some advocates of dignity have even suggested that in criminal law the harm principle should be replaced by 'the dignity principle' understood as the view that the main goal of the criminal law is to defend the unique moral worth of every human being (Dan-Cohen 2002, p. 150 ff.). Despite its widespread use, or perhaps partly because of that (cf., e.g., Dworkin 2011, pp. 13, 204), the notion of dignity has recently been subjected to increasing criticism. Its opponents commonly argue that the concept is indeterminate and either insufficient or redundant (or both) in justifying the kinds of legal and moral rights and views its proponents use it to vindicate. The term 'dignity' has been used to refer to things like facing adversity in a solemn manner, the social status bestowed upon one on the basis of one's exceptional talents or noble ancestry, and, as already suggested, a moral status all (and only) humans are seen to possess. Some of these senses of dignity seem irrelevant to justifying the kinds of important moral and legal views and rights dignity has been taken to

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