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Between fundamental rights and foundation: The position of human dignity in the Brazilian legal context

Clovis Demarchi

University of Vale do Itajaí (UNIVALI), Brazil
demarchi@univali.br

Abstract. The article focuses on Human Dignity and Fundamental Rights. The objective is to characterize Human Dignity as the foundation of Fundamental Rights. It is sought to demonstrate that the content of Human Dignity is the Fundamental Rights. The text is divided into five parts, initially with the proposal of creating a concept and the characterization for Human Dignity. In the next step, religious, political and philosophical elements of the idea of dignity are discussed. Then, the dignity in the Brazilian legal system is discussed, and the same occurs with Fundamental Rights. At the end of the article, there is a confrontation between Human Dignity and Fundamental Rights showing their intertwining. It was concluded that Human Dignity imposes limits on the actions of any organism and form of political or social organization. It is the foundation that determines the role of the Fundamental Rights. It is the condition of the existence of the human being. It is up to Human Dignity to bring the essence of what characterizes the human being in the juridical-social order. On the one hand, Fundamental Rights guarantee the realization of Human Dignity; on the other hand, dignity is concretized when Fundamental Rights are realized. The inductive method was used and the research was bibliographic and documentary.

Keywords. Human Dignity, Fundamental Rights, Foundation, Constitutionalism

1 Introduction

The article discusses Human Dignity and Fundamental Rights. The purpose of the paper is to characterize Human Dignity as the foundation of Fundamental Rights. That is, to demonstrate that the content of Human Dignity is Fundamental Rights. Thus, it is from the Human Dignity that the Fundamental Rights in a given State are conceived and outlined. This way, Human Dignity is an essential condition of Fundamental Rights.

With the positivation of Law and the development of Constitutionalism, Human Dignity becomes a highlight and a source for the foundation of Rights that are becoming positive. Fundamental Rights are directly related to the context of human activity. In Brazil, for example, they are present in all seven constitutions. Thus, it is found that Fundamental Rights represent the achievements and responses of society in its time and space.

In this context, Human Dignity and Fundamental Rights become intertwined. On the one hand, just as Fundamental Rights guarantee the realization of Human Dignity; on the other hand, Fundamental Rights represent the content of Dignity. To this end, this article initially presents a proposal of creating a concept and characterization for Human Dignity. In the next step, religious, political and philosophical elements of the idea of Dignity are discussed. Next, Dignity in the Brazilian legal system is presented and the same goes for Fundamental Rights.

At the end of the article, there is a brief confrontation between Human Dignity and Fundamental Rights showing the elements that interweave them.

For the development of this text, the Inductive Method was used with the bibliographic and documentary research.

2 Dignity: construction of a concept

The idea of Human Dignity is shaped in time, that is, it is influenced and directly interfered with by history, society, politics and law. Faced with this vast repertoire of understandings and thoughts, it is still anchored in religious thoughts and human nature. Given this, it is understood that dignity is an idea that was not born ready, finished, but on the contrary, it constantly molds itself to the needs and the very existence of the human being.

In contemporary law, the word dignity has generally been used in connection with human rights, and is used as an intrinsic quality of all human beings, regardless of their status and conduct. It reflects citizens' rights and duties, regulates their behavior in community and how they interact with others, including differences. It is therefore directly related to the essence of humanity (Demarchi, 2019).

To Sarmento (2016), the valorization of the human person is expressed in multiple ways, through different vocabularies, without the need to use a specific term to designate the phenomenon. However, the notion of Human Dignity evokes two different ideas: the dignity of the human species, which is much older, and the dignity of the human person, with the egalitarian goals of dignity. In other words, the dignity of the human species lies in understanding that the human species, due to its condition of consciousness before the world, the nature and the context of the universe, has a privileged position among the beings that inhabit this known world. Regarding the dignity of the human person, it involves the conception that the person, the individual, regardless of whom, by the singular condition of belonging to the human species and not belonging to other species, "has intrinsic dignity", and therefore people, regardless of social class, creed, social, economic or political power must be treated under the same conditions. According to Sarmento (2016), the first idea of the dignity of the human species is much older than the second, and the egalitarian facet of dignity would only be institutionally established in Modernity, with the Enlightenment movement.

In the Old World, it was evident the affirmation of the unique value of the human being in the natural world as a superior being. However, the recognition of an intrinsic equality between people cannot be extracted from the appreciation of humanity. On the contrary, the current of natural inequality between individuals was strong.

Penteado Filho (2012) understands that Human Dignity is a spiritual value inherent in the very man. Moraes (2005) analyzes that it brings with it the claim of respect by the other people, being constituted as, at least, invulnerable that all legal status must guarantee. Therefore, Human Dignity is directly related to the nature of man, his/her essence, what human beings should or should not do, their duties and rights as a person (Schachter, 1983).

In this way dignity is born with the human being, simply because the person belongs to the species. However, its protection, that is, the guarantee of this condition, is up to the State and society in general, which, besides protecting it, must respect it, must ensure that it is met in all its sense, organizing, creating and guaranteeing all possible means of protection not only for life itself, but the conditions for life to be dignified.

Given this, the question is: what is characterized as dignified or as dignity? Etymologically it can be understood as "valuable" or "intrinsic value" and in this context we have the idea of "respect", "recognition", "consideration". In this same classification, it can be observed the idea of dignity in a subjective and in an objective context. Subjectively it could be

related to how someone (person) feels or thinks about the other and objectively, how the person is treated, or used, or protected by the other person (Schachter, 1983).

Thus, it is not only how the person feels, but how the other, the group, society treats that person. In this context, it is understood that it is more palpable to observe dignity in the objective case than in the subjective one. This is because it is easier to observe and analyze actions than people's ideas and thoughts. It is easier to observe and analyze how people are treated, considered or respected than to understand how the person is feeling. It is even possible to "put oneself in the other's shoes", but at no time will one be able to feel what the other feels. The reactions of the person to the most varied situations are unusual and different. Setting a parameter for what can be quantified is possible, but the qualifiable will vary from person to person. Thus, by establishing that the person has guaranteed his/her "existential minimum"¹ one could objectively demonstrate that the person would have dignity, but that does not mean he/she feels dignified.

It is noteworthy that both objective and subjective situations are important, but the objective context is more evident for analysis and verification. Thus, objectively, when one observes the social conditions (housing, education, transportation, security), economic conditions (employment, work, income distribution, poverty), political conditions (democracy, exploitation, domination, sovereignty) one begins to understand in a simple way what characterizes or not dignity. By observing these objective conditions (social, economic, political), it is understood what the dignity of the person to be or not to be respected means. It is known that the person intrinsically possesses dignity, but with the social, economic and political conditions that do not provide guarantees or protection to him/her, the person has no conditions to exercise or have recognized his/her own human condition.

To Kant (2007), what characterizes the human being and makes him/her endowed with dignity is the fact that he/she can never serve as a mean for another human being. Thus, the person does not exist in function of the other and should not be used as an object by the other. The human person finds in him/herself his/her meaning. That is, the person presents his/her end in him/herself. The person is the very cause of him/herself. When the person expresses his/her will, before what he/she alone represents, he/she goes to the second element of dignity, that is, the "autonomy of the will". It is in this context of the autonomy of will that, to Kant (2007), morality is present. Therefore, the author states: "man - and in general every rational being - exists as an end in himself and not merely as a means to be used by this or that will at its discretion" (Kant, 2017, p. 28).

3 The influence of religion, philosophy and politics on the idea of dignity

Resuming to the previous idea and wondering, according to Comparato (2003, p. 1) "what does human dignity consist of?", it can be observed that in addition to what was presented, one could rely on religious, philosophical and political ideas about dignity. From the moment religions² begin to meet the precept of monotheism³, in which men are conceived as "the image and likeness of God", they all become objectively and subjectively equal, that is, "independent of possessions, qualities and nobility" (Martins, 2005, p. 22). With the idea of a single god, its

¹ This is classified as an existential minimum as set out in Article 25.1 of the Universal Declaration of Human Rights of 1948, namely: "(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control" (United Nations -Universal Declaration of Human Rights. Retrieved from <https://www.un.org/en/universal-declaration-human-rights/>).

² It is established in this list Islamism, Judaism and Christianity.

³ Worship of a single god.

worship spread. With the preaching of Paul of Tarsus equality (objective element) is established as a component of the dignity of the human person, because, according to him, “There is neither Jew nor Gentile, neither slave nor free, nor is there male and female, for you are all one”⁴.

Sarlet (2012) reports that the Christian religion conceives the dignity of the human person from biblical texts - both in the Old and New Testaments - and that both refer to man’s creation in God’s image and likeness. Moraes (2005), in turn, states that the origin of individual rights of man could already be observed in the history of ancient Egypt and Mesopotamia in the third millennium BC, where some mechanisms of individual protection against the State were already perceived, taking as example the Hammurabi Code -1690 BC (Albergaria, 2012) considered the first codification to consecrate inherent rights to all men such as life, property, honor, dignity and family. Already in the philosophical-religious environment, Moraes (2005) points to the influence of Buddha’s ideas on the equality of all men (500 BC).

Comparato (2003) reports that the great principles on which the fundamental guidelines of life were in effect up to the present day were set out at the center of the axial period, between 600 and 480 BC. The period when some of the greatest thinkers and influencers of all time coexisted, such as Zaratustra in Persia, Buddha in India, Lao Tzu and Confucius in China, Pythagoras in Greece, and Duthero Isaiah in Israel.

Historical moment in which they simultaneously created concepts that influenced the history of humanity, in which, for the first time, the human being is considered a being endowed with freedom and reason, regardless of the differences of sex, race, religion, laying the intellectual foundations as the basis for the understanding of the human person, as well as for the understanding and comprehension of human person’s inherent universal rights.

Some point out that it was the Roman Law to establish the mechanisms of interdictions, aiming to protect individual rights in relation to state agency, pointing to the Law of the Twelve Tables (Albergaria, 2012) as originating from the written texts that consecrate freedom, property and the protection of the rights of individuals.

In this context, Christianity would have influenced the consecration of fundamental rights, and the popularization of the message of equality between men, through Pope Saint Leo the Great, by sustaining that human beings possess dignity through the fact that God created them in his own image and likeness (Sarlet, 2012).

Between the sixth century, when a new concept of the human person, developed by Boethius, arose, whose writings influenced all medieval thinking, defining the human person as an individual substance of rational nature, and later, in the mid-fifteenth century, when Thomas Aquinas, influenced by Boethius, launched the expression “*human dignitas*”, also with the understanding that dignity rests on the foundation that human beings were made in the image and likeness of God, but possess the capacity for self-determination inherent in human nature (Sarlet, 2012), is registered as a period of great philosophical-religious debates on the subject.

However, only from the following centuries, between 17th and 18th, there was a strong development and improvement of the conception of the dignity of the human person, with the strengthening of the ideals of man as a citizen, with fundamental rights and protection before the State (Staffen & Arshakyan, 2016).

The period in which the philosophers Grotius and Hobbes, the most outstanding authors of the period, who had the theme of dignity as their reference, stood out. Grotius understood that Human Dignity manifests itself in the context of the right to the grave, which is related to respect for the corpse. Hobbes understood that dignity is essentially linked to the social prestige

⁴ Retrieved from <https://www.biblegateway.com/passage/?search=Galatians+3%3A28&version=NIV>.

of positions held by individuals, a value attributed by the State and by other members of the community to someone (Sarlet, 2012).

Pufendorf breaks the barriers between earlier traditional thinking and the elaboration of what he considers to be the first typically secular and rational formulation of the dignity of the human person, grounded in moral freedom as the distinguishing feature of the human being. Pufendorf understood that the concept of dignity is not founded in any natural qualities of man or in his social prestige, but in his morality, because, to him, this is what gives dignity to man (Sarlet, 2012).

Egalitarianism of dignity manifested itself in the work of great Enlightenment philosophers. The most cited example is Rousseau, who evidenced in the social contract the affirmation of a regime of full equality between citizens, ensuring equality even in the drafting of laws (Sarmiento, 2016).

According to Santos (2015), philosophy in its answers to questions concerning the human being, its main concern is to demonstrate that the human being is distinguished from other beings and nature itself, by his/her dignity. And as such, he observes that human dignity “finds an element of distinction in human rational nature” (Santos, 2015, p. 187), and it is through it that human beings can “make moral judgments, (...) generate concepts and communicate such concepts”. It is through human rational nature that man is able to “make choices to fully develop human virtues” (Santos, 2015, p. 187).

As stated by Sarmiento (2016), the most important formulation of human dignity in the Enlightenment period, and probably the most influential in history, is the one made by Kant. According to the author, “the Kantian theory that people, unlike things and animals, have no price, but dignity, constituting ends in themselves, is known” (Sarmiento, 2016, p. 35). According to Sarmiento (2016), Kant bases this dignity on the autonomy of the human person, which gives him/her the ability to act according to morality.

Sarlet (2012) states that it is in this thinking of Kant that the current legal doctrine, both in Brazil and internationally, demonstrates to seek foundation for conceptualizing the dignity of the human person.

4 Dignity in the brazilian legal order

Sarmiento (2016) makes a collaborative and very insightful analysis of the principle of human dignity in legal interpretation. According to him, in addition to respect for the original constituent power and international human rights norms, as well as the moral force of the principle and its deep emotional appeal, addressed not only to the legal operators, but also to any citizen, are the basic reasons for continuing to bet on it as “a powerful instrument for the humanization of the legal system and social practices” (Sarmiento, 2016, p. 18).

Law conceptualizes Human Dignity from the analysis of various issues inherent in the variety of protected goods (education, health, housing, social assistance, work, leisure), in the various degrees of protection of fundamental rights and in the relationship of interdependence of the protected human rights.

The dignity of the human person is adopted as the basic value of the democratic rule of law and acts to recognize the human being as the center and the end of the law, and it is up to the State to protect this basic value, since it was created with the intention to take care of the interests of the human being in society.

In addition to the thoughts of indoctrinators and philosophers, the history of the dignity of the human person also runs parallel to a series of revolutions and treaties among nations that occurred over decades and resulted in the present concept of this foundation. As a norm, in terms of law, the dignity of the human person proves to be a universally proclaimed term, even

though, in daily legal practice, applied to specific cases, many do not clearly define its concept and applicability.

Dignity is present in practically all international declarations and treaties on human rights, and is established in at least 149 national constitutions of the 194 currently in effect (Sarmiento, 2015), and is also recognized in countries whose constitutions do not expressly mention the principle, such as: France and the United States.

In the 1988 Brazilian Constitution, Human Dignity was not included in the list of fundamental rights and guarantees, but in the condition of principle and fundamental value. The Constituent Assembly has clearly and unequivocally set out to grant fundamental principles the quality of grounding and informative norms of the entire constitutional order, especially fundamental rights and guarantees (Sarlet, 2012).

Sarlet (2016) conceptualizes the dignity of the human person as “the intrinsic and distinctive quality recognized in every human being that deserves the same respect and consideration from the State and the community” (p. 73).

In the light of the above, it can be said that the document that brings in a more concrete way to the fundamental ideals of this concept is the UN Universal Declaration of Human Rights, which already established in its preamble: “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 [...]”.⁵

Thus, Human Dignity is related to the life of the human being, his/her condition of living in society, of being respected in all his/her condition, in this context that dignity is the intrinsic characteristic of the human being.

5 The fundamental rights in the brazilian legal order

Rights were conceived, built and conquered in the historical process of the Society. Grounded and socially, politically, economically, religiously and ethically motivated directly related to the human condition⁶. By characterizing Fundamental Rights, they result, in this process of construction, in the provision, reception and constitutional positivation of the various legal systems.

Fundamental rights is a vast theme and there is a wide discussion in doctrine about its terminology and concept. More specifically and based on Perez Luño (1995), we will work with the idea that Fundamental Rights are the recognized and positive rights in the sphere of positive constitutional law. Ferrari (2011) shares the same idea, who claims to be the rights conferred on the members of a given Society, established and guaranteed by normative effectiveness in a concrete legal order. Or Canotilho (2003) who claims that rights are positivized through their incorporation into the Constitution of a given country and thus limited spatially and temporally.

As they stand, the Fundamental Rights, provided in the Constitution of a particular State, are subject to the constitutionality control of that State and thus are related in the legal system according to its hierarchy and importance. So, it is understood, in this context, that Fundamental Rights are those recognized and consequently incorporated into the legal system. By their consequent importance, they are constitutionalized (Mazzuoli, 2014). Thus, the considerations on the material and formal character of Fundamental Rights will not be discussed.⁷

⁵ Retrieved from <https://www.un.org/en/universal-declaration-human-rights/>

⁶ Here understood as proposed by Hannah Arendt in the context of labor, work and action. See Arendt, H. (2015). *A condição humana*. Rio de Janeiro: Forense universitária.

⁷ In case of interest in this discussion, see: Miranda, J. (1998). *Manual de Direito Constitucional. Direitos Fundamentais* (tomo IV). Coimbra: Coimbra Editora; Canotilho, J. J. G. (1996). *Direito Constitucional*. Coimbra: Almedina; Sarlet, I. W. (2012). *A Eficácia dos Direitos Fundamentais. Uma teoria geral dos Direitos Fundamentais na perspectiva constitucional*. Porto Alegre: Livraria do Advogado.

Fundamental Rights have several characteristics, one of them being historicity. In this context, it should be noted that rights are born and developed according to time and space, and they are not all born at the same time. According to Bobbio (1992), “rights are not born all at once. They are born when they should or may be born” (p. 6). Thus, each Society, each State incorporates its Rights in response to the specific demands of the Society. In this way, as Rights arise in time and space, they may also disappear at a certain historical moment in a particular State that has positively affirmed it (Silva, 2004).

Fundamental Rights have the characteristic of generality, that is, it reaches all those involved by a certain state order. It should also be noted that Fundamental Rights are not absolute, because, if that were the case, they would become limiting, or “no state or social objective would prevail over them, which would have priority over any collective interest” (Mendes, Coelho, & Branco, 2000, p. 120). The mere fact that we have more than one Fundamental Right already puts a limit and eliminates the possibility of being absolute, so a fundamental right suffers limitations compared to other Fundamental Rights. As well as the possibility of the alienability or availability of a Fundamental Right can be also established.

Given this reality of Fundamental Rights, constitutionalism has become essential to its characterization as they need to be positivized in a certain legal order. Brazil in particular has already emerged under the cloak of constitutionalism. Even at first as an empire, Brazil was declared a Constitutional Monarchy.

In the history of Brazilian constitutionalism⁸, since the Imperial Constitution of 1824 it is possible to affirm that the Fundamental Rights are present, because the idea of freedom is positive. Despite the existence of an official religion, there was freedom of creed. Political and civil rights, although limited, were visible at the time, as were individual security and property. In this historical context, it cannot be affirmed that Human Dignity was present, because as it is known at that time there was slavery and, in this way, a portion of the population had no freedom and was on the fringe of many rights. Political rights were not universal, but for a specific portion of society and women had no right to vote.

A priori, when observing this historical context, one can think of how such a reality would be possible, however, as Bobbio (1992) stated earlier, rights are not born together, so they are the result of achievements, struggles, and evolution of society. That is why the importance of the rights provided for in that context cannot be denied. On the other hand, this reality demonstrates that even today we have not yet completed what may be the fullness of rights. It may be that for that historical moment it was a great achievement, because it was about a constitutional Charter granted and a historical moment in which the will of a single governor prevailed.

The 1891 Constitution influenced by the North American Constitution of 1789 and its republican and federative model, marked the transition from constitutional monarchy to republic. Progress has been made on political rights, the inviolability of the right to life, liberty, individual security and property. Freedom of creed was respected and the state became legally lay. *Habeas corpus* was instituted as a guarantee of the fundamental rights to freedom of movement.

The landmark of the 1934 Constitution, based on the ideals of the 1917 Mexican Constitution and the 1919 German Constitution, established the promotion of social, cultural and economic rights. The social and economic rights came to affirm the need for material equality (Demarchi, C. Fontana D. C., 2019). They now ensure the right to work, healthcare and housing. These conditions are necessary for a decent life. In terms of political rights

⁸ See Campanhole, A., & Campanhole, H. (1992). *Constituições do Brasil*. São Paulo: Atlas.

advances were presented with the vote for those over 18, including women. Along with the *Habeas Corpus*, the Writ of Mandamus was secured.

The 1937 Constitution, due to its peculiarity, to be granted, in comparison with the other Constitutions presented a loss of Rights. With the end of World War II and the resignation of Getúlio Vargas, a new Constitution was made and promulgated in 1946. It brought back the values of freedom lost under the dictatorship of the “*Estado Novo*” (New State).

The end of the war contributed to transformations in most of the Constitutions of all countries involved. There was no concern other than the resumption of the democratic model and the defense of rights promoted in previous letters. With the Military Coup in 1964 the rights provided for in the 1946 Constitution were disrespected until a new Constitution was made in 1967. Brazil lived under a dictatorship and the rights were set aside, or rather the Constitution was set aside. In 1967 the Military Regime was positivized. The suspension of constitutional rights was allowed. What can be seen from this period is that the rights were formally presented, but in fact were not respected.

By observing the legislation and by making a simple comparison of constitutional texts, it can be seen that the 1967 Constitution brought many advances in the field of human rights. However, these advances were presented formally and not in fact. What happened in the political, social and legal reality was the denial of all rights that the Constitution provided for.

With the end of the military regime and the implementation of the 1988 Constitution, it is historically observed that the Brazilian Society evolved and built a Constitution for that time. It marks great advances, closing this way the cycle of rights of freedom, equality and solidarity.

It is understood that the formalization of Fundamental Rights has advanced, but the process of realization of these rights has not been an easy task. Brazilian society has been working with hits and misses, as it is common, in any development process. As stated by Bonavides and Andrade (2004), Brazilian constitutional history is marked by contradictions and difficulties in the passage from the legal level to the reality of social relations. Each constitutional creation is a response to the political, economic, social and legal situation of the time. In each historical moment, the human being longs for an ideal, which for the future may or may not be better, but regardless of the result, is the product built at that time.

6 Human dignity and fundamental rights

Human Dignity and Fundamental Rights intertwine in a relationship of double implication. On the one hand, Human Dignity needs the Fundamental Rights for its guarantee and effectiveness; on the other hand, it is the Fundamental Rights that represent the contents and, therefore, delimit Dignity. Thus, the relationship between Human Dignity and Fundamental Rights is a direct one. In other words, Human Dignity without Fundamental Rights is not guaranteed, and Fundamental Rights are the externalization of the protection of Human Dignity.

In this context of intertwining Human Dignity and Fundamental Rights, it cannot be confused Human Dignity, which is a foundation, with a fundamental right. What stands out is the fact that Dignity is the foundation of fundamental rights⁹. That is, it is impossible to admit that the Fundamental Rights are devoid of any content that is not based on Dignity, because as previously seen, Dignity is directly related to the nature of man. Not only because it is born with the human being, or simply because the person belongs to the species, but because of the need for the human to have this condition guaranteed. This justifies why Fundamental Rights are effective in protecting and guaranteeing Dignity.

⁹ For further information, see Sarlet, I. W. (2012). *Dignidade da Pessoa Humana e Direitos Fundamentais na Constituição de 1988*. Porto Alegre: Livraria do Advogado.

It is evident that one cannot think of Fundamental Rights without content of Dignity. They respond to the need to realize Dignity as a foundation. Realizing fundamental rights implies the protection of human dignity. Thus, realizing the Fundamental Rights is how the Human Dignity is concretized and, therefore, the non-realization of the Fundamental Rights implies the non-realization of the Human Dignity.

It is true, therefore, that Dignity is presented as a measure of Fundamental Rights, and likewise the violation of a fundamental right is directly linked to the offense against Human Dignity.

7 Conclusion

It has been observed that Human Dignity imposes limits on the actions of any organism and any form of political or social organization from the moment it is established that it is the foundation that determines the list of Fundamental Rights.

It is Human Dignity a condition of the existence of being human. It is up to Human Dignity to bring the essence of what characterizes the human being in the juridical-social order. That is why it is the essential and fundamental element in legislative positivities. Man must be taken into account as the first element.

There is no denying that with the positivization of the Law and the development of Constitutionalism, Human Dignity became the foundation, the basis for the positivization of other rights in constitutional contexts.

Human Dignity and Fundamental Rights intertwine. On the one hand, Fundamental Rights ensure the realization of Human Dignity; on the other hand, Dignity is concretized when Fundamental Rights are realized, in this context all Fundamental Rights are provided with Dignity content. In this way, Fundamental Rights respond to the need to realize Dignity as a foundation. Dignity is presented as a measure of Fundamental Rights and the violation of a fundamental right is directly linked to the offense to Human Dignity.

As noted, the aim of the article was to establish the relationship between Human Dignity and Fundamental Rights, considering, this way, Human Dignity as the foundation of Fundamental Rights and these as the content of Dignity. Fundamental Rights respond to the need to realize Dignity as a foundation. The realization of fundamental rights implies, as a consequence, the protection of human dignity. For the development of the article, the Inductive Method was used and the research was bibliographic and documentary.

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