

DIGNITY AS A SOURCE OF FREEDOMS AND RIGHTS OF CHILDREN IN POLAND

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Summary: Dignity is a fundamental value in human life, in human social functioning, as well as in the legal order. It is inalienable, inherent and inviolable. In Poland, human dignity is guaranteed by Article 30 of the Constitution of the Republic of Poland. The indicated regulation determines the position of a person in the legal system, grants him subjectivity and takes away the right of state power to determine his status. Dignity is possessed by every human being, regardless of age, gender, race, religion. It is also possessed by children. The Polish Constitution ensures the protection of children's rights while safeguarding their dignity, which should not be abused or restricted by others. It should be a fundamental value during childhood. Granting subjective status to children means that those responsible for the actual realization of their rights are limited in their actions, while at the same time they are obliged to respect them.

Keywords: dignity, human, child, theory, non-transferability, source.

1 Introduction

With the development of human rights and freedoms, starting from antiquity until modern times, great scholars, but also ordinary people, have been considering what lies at the core of human values, rights and duties, what makes individuals follow and fulfill them, striving for a common goal. It was recognized that one of the fundamental values that guide us when analyzing the issue of human rights is dignity. A person is a unique, unrepeatable, unique being, aware of his values, views and rights. His most essential characteristic is, given with nature, dignity. It is the most important feature and an innate value attributed to every human being¹. It constitutes the individual as a person equal before others, equal in law and before the law². As stated in Article 32 paragraph 1 of the Constitution of

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- 1 BANDACH, Małgorzata. *Dignity of the child and the ideal of authenticity in education*. In KRYŃSKA, Elwira J., KALISZ, Łukasz, SUPLIKA, Agnieszka. *The child in history – between dignity and enslavement. Volume 1 Dignity as the foundation of human rights*. Białystok: University of Białystok Publishing House, 2011, pp. 154.
 - 2 BERNATEK-ZAGUŁA, Izabela. *The constitutional principle of equality before the law in light of the law on the release of business information*. *Constitutional Law Review*, 2012, vol. 3, no. 11, pp. 73 – 74.

the Republic of Poland “*All are equal before the law. Everyone has the right to equal treatment by public authorities.*”³. Equality in law means that every person is covered, by legal regulations, with special protection due to the fact of being a subject of law⁴. The indicated protection cannot be graded against the person, nor can it lead to discrimination⁵. Equality before the law, on the other hand, is characterized by equal treatment of all people during the application of the adopted legal system⁶.

Despite its many limitations and periods of inhumane treatment of human beings, such as slavery, torture and fascism, dignity is continuously an inviolable value, inscribed in a person, which cannot be taken away from anyone. The aim of the article is to analyze in detail the features of human dignity as the source of all human rights and freedoms, with particular emphasis on the rights of children. Polish constitutional regulations under which the protection of freedoms and rights has been granted to human beings will be discussed. To the extent indicated, it will be discussed whether human rights are indeed based on the foundation that is dignity, and what obligations are imposed on the public authority, but also on the people, in connection with the granting of this inalienable value. In particular, it will be interpreted, how the granting of human dignity affects the realization of the rights of the youngest in adolescence and the process of their upbringing, as well as what obligations lie with those responsible for the adequate development of children in the realization of their subject status. In addition, it will be explained how the role models transmitted in childhood contribute to the realization and respect of dignity and the resulting rights and freedoms in later adult years. In order to answer the questions posed above, the legal norms contained in the Constitution of the Republic of Poland and selected jurisprudence of the Polish Supreme Court and the Constitutional Court in the subject area will be discussed.

2 Human dignity as a philosophical theory

The theory of dignity has developed over the centuries. Great philosophers and scholars tried to understand what dignity is for man, the state, the world. Each of them perceived it differently, paid attention to other important elements. It is thanks to these considerations of the past that we now know the full value of dignity. One of the first philosophers to address this topic was Plato, among others. Although the idea of a person was unknown in his time, he focused on dignity as its existence. Aristotle, in turn, defined this value as ethical virtue and

3 Constitution of the Republic of Poland of April 2, 1997, art. 32 paragraph 1.

4 BERNATEK-ZAGUŁA, Izabela. *The constitutional principle of equality before the law in light of the law on the release of business information*. Constitutional Law Review, 2012, vol. 3, no. 11, pp. 74.

5 PIECHOWIAK, Marek. *Dignity as a quality of person: Types of dignity – A proposed systematisation – Part 1*. Constitutional Review, 2022, no. 2, pp. 13.

6 BERNATEK-ZAGUŁA, Izabela. *The constitutional principle of equality before the law in light of the law on the release of business information*. Constitutional Law Review, 2012, vol. 3, no. 11, pp. 74.

the possession of reason⁷. The Stoics believed that “man for man’s sake is a sacred thing”. In the Middle Ages, Thomas Aquinas thought that being a man came down first and foremost to possessing something perfect, characteristic. That characteristic is dignity. He believed that the very existence is dignity, therefore every rational being is a person⁸. The Enlightenment philosopher Immanuel Kant concluded that human should never be a means to an end, but the end itself⁹. He believed that dignity is an ideal and absolute value¹⁰.

3 Modern theory of human dignity

Today, dignity is no longer just a philosophical theory, as it is also reflected in legal regulations. Personal dignity, or innate dignity, which every human being is entitled to by virtue of the very fact of being a person, is a fundamental value in human life, in his social functioning, as well as in the legal order¹¹. It is primary, objective, unconditional, independent of state law¹². It is an absolute value, which means that in the legal system there is no higher value than dignity¹³. It cannot be disposed of. Innate dignity is also the basis in the formation of other types of dignity, which a person possesses and through which he shapes his character on the basis of experience gained. Thanks to dignity, man becomes free, autonomous and capable of developing himself and taking his own actions. In the Constitution of the Republic of Poland there is no legal definition of dignity and it is a rather vague concept¹⁴. It can be assumed that it constitutes “a sense of self-worth, self-respect and the expectation of respect from others”¹⁵. It is a special, inherent and inalienable good, intrinsic value, which is the source of all rights, freedoms and duties¹⁶. Dignity defines the essence of humanity and is inseparable from the human being¹⁷. It refers to the legal-natural theories, according to which dignity

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- 7 LEŚ, Tomasz. *Concepts of knowledge in the philosophy of Socrates, Plato and Aristotle*. Cracow: Jagiellonian University Publishing House, 2016, pp. 117.
 - 8 WALCZAK, Paweł. *The Child as Subject of Rights. Towards a philosophical basis of children’s rights*. Paradygian Studies, 2021, vol. 31, pp. 295.
 - 9 MIKLASZEWSKA, Justyna. *Human dignity in the concept of Immanuel Kant and the experience of Auschwitz*, Philosophical Movement, 2017, vol. 73, no. 4, pp. 51.
 - 10 DZIEDZIAK, Wojciech. *Human Dignity as the Fundamental of Justice*. Lublin: Maria Curie-Skłodowska University in Lublin: Annales Universitatis Mariae Curie-Skłodowska, 2019, sectio G, Vol. LXVI, no. 1, pp. 89.
 - 11 Ibidem, pp. 90.
 - 12 Ibidem, pp. 90.
 - 13 GRANAT, Mirosław. *Human dignity from Article 30 of the Polish Constitution as a value and as a legal norm*. State and Law, 2014, vol. 8, pp. 15.
 - 14 BANASZAK, Bogusław. *The Constitution of the Republic of Poland. Commentary*. Warsaw: C.H. Beck Publishing house, 2012, pp. 210.
 - 15 DZIERŻANOWSKI, Tomasz, BINNEBESEL, Józef. *Dignity in dying*. Palliative Medicine, 2019, vol. 11, no. 4, pp. 156.
 - 16 WOJCIECHOWSKI, Bartosz. *Human Rights. Basic Issues*. Public Philosophy and Democratic Education, 2014, vol. 3, no. 2, pp. 247 – 248.
 - 17 DZIEDZIAK, Wojciech. *Human Dignity as the Fundamental of Justice*. Lublin: Maria Curie-Skłodowska University in Lublin: Annales Universitatis Mariae Curie-Skłodowska, 2019, sectio G, Vol. LXVI, no. 1, pp. 94.

is universal and inextricably belongs to everyone regardless of their qualities, ethnicity, age, gender, or wealth¹⁸, as well as not to be abused. It should be respected by all, both by other people, subjects of private law and public authorities of the state¹⁹. No power: executive, legislative or judicial, should seek to negate and limit it in the creation, application of law and issuance of judgments²⁰. Human dignity, thanks to its unique characteristics, tips the Constitution of the Republic of Poland in particular to man and respect for his rights²¹.

Everyone's sense of dignity is determined by internal factors (our psyche), as well as external factors, shaped through historical, cultural or religious changes²². Human dignity is an interdisciplinary issue²³. However, the guarantee of its inviolability in Poland can be found in the Constitution of the Republic of Poland of April 2, 1997 in the preamble and Article 30, which states that "The inherent and inalienable dignity of man is a source of freedom and rights of man and citizen. It is inviolable, and its respect and protection is the duty of public authorities."²⁴.

The aforementioned provision is a legal norm that allows a person to be recognized as a subject of law and guarantees the inviolability and inalienability of this subjectivity²⁵. It is one of the guarantees of the implementation of the principle of a democratic state of law²⁶. In addition, it is a peremptory provision, which is one of the foundations of the state system²⁷.

The legal norm in question does not classify how dignity can be violated, limited or excluded. Human dignity should be covered by the highest form of protection, provided by law²⁸. Article 30 of the Polish Constitution is a complete,

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- 18 WOJCIECHOWSKI, Bartosz. *Human Rights. Basic Issues*. Public Philosophy and Democratic Education, 2014, vol. 3, no. 2, pp. 247 – 248.
 - 19 POTRZESZCZ, Jadwiga. *Human dignity in the jurisprudence of the Polish Constitutional Court*. Yearbooks of Legal Sciences, 2005, vol. XV, no. 1, pp. 30.
 - 20 DZIEDZIAK, Wojciech. *Human Dignity as the Fundamental of Justice*. Lublin: Maria Curie-Skłodowska University in Lublin: Annales Universitatis Mariae Curie-Skłodowska, 2019, sectio G, Vol. LXVI, no. 1, pp. 90.
 - 21 PIETRZAK, Helena. *Dignity and equality of the child in the family*. Canon Law, Journal of the Cardinal Stefan Wyszyński University in Warsaw, 2019, vol. 62, no. 4, pp. 175.
 - 22 BANASZAK, Bogusław. *The Constitution of the Republic of Poland. Commentary*. Warsaw: C.H. Beck Publishing house, Warsaw, 2012, pp. 210.
 - 23 MROZEK, Jacek Janusz. *Dignity of the human person as a source of human and civil rights*. Civitas et Lex, 2014, no. 1, pp. 42.
 - 24 Constitution of the Republic of Poland of April 2, 1997, art. 30 and Preamble.
 - 25 BOSEK, Leszek. *Article 30 The Constitution of the Republic of Poland*. In SAFJAN, Marek, BOSEK, Leszek (eds.). *The Constitution of the Republic of Poland. Volume I. Commentary to Articles 1–86*. Warsaw: C.H. Beck Publishing house, 2016, pp. 722.
 - 26 TULEJA, Piotr. *The Constitution of the Republic of Poland. Commentary*. Warsaw: Wolters Kluwer Publishing house, 2023, pp. 115.
 - 27 ZIELIŃSKI, Sebastian. *Understanding of human dignity and its importance in the process of lawmaking and application. A proposal for a test of compliance of legal regulations with the principle of human dignity*. Parliamentary Review, 2019, no. 4(153), pp. 108.
 - 28 PIETRZAK, Helena. *Dignity and equality of the child in the family*. Warsaw: Canon Law, Journal of the Cardinal Stefan Wyszyński University in Warsaw, 2019, vol. 62, no. 4, pp. 175.

independent and peremptory norm, which means that it applies always and consistently, including when other legal provisions provide protection for human dignity and rights, and when they do not²⁹. Provisions on human rights and freedoms that would contradict to dignity, should not be protected by law. The Supreme Court of Poland, in a judgment of February 7, 2023, and judgment of June 28, 2023³⁰, acknowledged that human dignity belongs to “the group of the most important, particularly valuable personal goods protected by the constitutional order, and their effective protection is a fundamental duty of public authorities.”³¹.

4 Human dignity in the Polish legal order

The primary function of Article 30 of the Polish Constitution is to define the position of man in the legal system, as well as to grant him subjectivity and take away the ability of the state to determine the subjectivity and status of man³². In addition, the dignity referred to in Article 30 of the Polish Constitution links state (positive) law with natural law, which translates into the way constitutional norms are read³³. The aforementioned provision forms, together with other rights and freedoms, a system of values, sets the directions for interpreting legal provisions aimed at protecting human rights and the limits of the permissibility of introducing restrictions on them³⁴. The Polish doctrine points to the primary nature of dignity in relation to specific freedoms and human rights³⁵. However, dignity, despite being the basis for the realization of other rights, does not determine their content³⁶. Human rights are distinguished by their independent object status, which is based on human dignity³⁷. The Constitutional Court, in its judgment of March 5, 2003, held that human dignity is characterized by absolute protection, and in its scope it is impossible to refer to the principle of proportionality³⁸.

The dignity of every human being is a value guaranteed by constitutional norms, which means that it should not be reduced only to other rights and

29 GRANAT, Mirosław. *Constitutional Law. Questions and answers*. Warsaw: Wolters Kluwer, 2019, pp. 124.

30 Judgement of the Supreme Court of June 28, 2023, ref. II NSNc 98/23, website LEX no. 3579326, accessed: 09.03.2024.

31 Judgement of the Supreme Court of February 7, 2023, ref. II NSNc 71/23, website LEX no. 3537864, accessed: 09.03.2024.

32 POTRZESZCZ, Jadwiga. *Human dignity in the jurisprudence of the Polish Constitutional Court*. Yearbooks of Legal Sciences, 2005, vol. XV, no. 1, pp. 31 – 32.

33 BANASZAK, Bogusław. *The Constitution of the Republic of Poland. Commentary*. Warsaw: C.H. Beck Publishing house, 2012, pp. 210 – 211.

34 TULEJA, Piotr. *The Constitution of the Republic of Poland. Commentary*. Wolters Kluwer Publishing house, Warsaw, 2023, pp. 115 – 116.

35 GRANAT, Mirosław. *Human dignity from Article 30 of the Polish Constitution as a value and as a legal norm*. State and Law, 2014, vol. 8, pp. 16.

36 Ibidem, pp. 16.

37 Ibidem, pp. 16.

38 Judgment of the Constitutional Court of March 5, 2003, ref. K 7/01.

freedoms, while they can not contradict it³⁹. Nor can it be “dissected” into individual, specific rights, since they constitute a whole⁴⁰. In addition, due to the lack of a legal definition of dignity in legal acts, as well as in doctrine and jurisprudence, it is impossible to assert its violation without recourse to general human rights, since the constitutional value in question is not an independent subject of law⁴¹. Accordingly, in the jurisprudence of Polish common courts, as well as the Supreme Court and the Constitutional Court, the violation of Article 30 of the Constitution of the Republic of Poland is not considered individually, while at the same time with the abuse of another constitutional right⁴².

Human dignity is an inseparable part of constitutional systems. It has become the basis of positive law in many countries. In most European countries, it has been explicitly indicated in legislation. Looking in detail at the regulations of individual countries in Europe or around the world, it is not possible to point directly to a single, comprehensive system of human dignity and a common concept of its protection.

The accentuation of dignity in Poland’s most important document, the Constitution, as well as in other legal acts or court rulings, underscores its importance and significance. We gain dignity at birth, we do not acquire it by taking some legal action or through the will of the legislator⁴³. It can be unquestionably considered a constitutive value. A person regardless of social group, education, profession, course of action or mental or physical health is endowed with it⁴⁴. No one can diminish it, increase it, let alone take it away.

Human dignity consists, among other things, in distinguishing right from wrong and acting morally. The Polish Constitutional Court found that dignity, as stipulated in Article 30 of the Constitution of the Republic of Poland, primarily has the following functions: it is a subjective right of every individual, a determinant of the legal system, a foundation and duty to protect other freedoms and rights, facilitates the application of legal acts, as well as introduces elements of legal and natural concepts into the Constitution (an act of positive law)⁴⁵. In its judgment of November 15, 2000, the Constitutional Court indicated that human dignity is superior to the will and decisions made by the legislator⁴⁶, as determined by its

39 DZIEDZIAK, Wojciech. *Human Dignity as the Fundamental of Justice*. Lublin: Maria Curie-Skłodowska University in Lublin: Annales Universitatis Mariae Curie-Skłodowska, 2019, sectio G, Vol. LXVI, no. 1, pp. 92.

40 PIECHOWIAK, Marek. *Dignity as a quality of person: Types of dignity – A proposed systematisation – Part 1*. Constitutional Review, 2022, no. 2, pp. 15.

41 BANASZAK, Bogusław. *The Constitution of the Republic of Poland. Commentary*. Warsaw: C.H. Beck Publishing house, 2012, pp. 210.

42 GRANAT, Mirosław. *Human dignity from Article 30 of the Polish Constitution as a value and as a legal norm*. State and Law, 2014, vol. 8, pp. 3–4.

43 BANASZAK, Bogusław. *The Constitution of the Republic of Poland. Commentary*. Warsaw: C.H. Beck Publishing house, Warsaw, 2012, pp. 210–211.

44 TULEJA, Piotr. *The Constitution of the Republic of Poland. Commentary*. Warsaw: Wolters Kluwer Publishing house, 2023, pp. 115.

45 Judgment of the Constitutional Court of October 15, 2002, ref. SK 6/02.

46 Judgment of the Constitutional Court of November 15, 2000, ref. SK 12/99.

legal-natural character and belonging by virtue of the very fact of being a human being⁴⁷. Moreover, in Constitutional Court's judgment of March 16, 2011, the Court acknowledged that the obligation to respect dignity, guaranteed by Article 30 of the Constitution of the Republic of Poland, obliges state bodies to guarantee the most effective and complete protection of human rights and freedoms and to remedy any violation of them that arises⁴⁸. In another judgment of April 4, 2001, the Constitutional Court stressed that *"The prohibition on violating human dignity is absolute and applies to everyone. In contrast, the duty to respect and protect dignity is imposed on the public authorities of the state. Consequently, all actions of public authorities should, on the one hand, take into account the existence of a certain sphere of autonomy within which a person can fully realize himself socially, and, on the other hand, these actions must not lead to the creation of legal or factual situations that deprive an individual of his sense of dignity."*⁴⁹.

In Poland, dignity is one of the principles of general human rights and freedoms, right next to freedom and equality. In enacting the Constitution of the Republic of Poland, it was recognized that dignity should be the first value and other aspects of human life should be subordinated to it and take it into account. It is the foundation for the entire legal order⁵⁰. Moreover, the state's actions should not lead to situations in which human dignity would be restricted or taken away. The Supreme Court in Poland, in a judgment dated September 21, 2022, held that *"[...] a democratic legal state is obliged to effectively protect the freedom and dignity of individuals, legal security [...]"*⁵¹. As also stated by the Constitutional Court in Poland in its numerous rulings, dignity is the point of reference and foundation for the system of values around which the Polish Constitution was built⁵². Moreover, it has recognized that dignity is primary in relation to other human freedoms and rights, and because of this feature, dignity cannot constitute a set of rights, as it is the source of them⁵³. Human rights are not the result of granting dignity to a human being, nor is it the cause of their guarantee by law⁵⁴. As is clear from

47 PIETRZAK, Helena. *Dignity and equality of the child in the family*. Canon Law, Journal of the Cardinal Stefan Wyszyński University in Warsaw, 2019, vol. 62, no. 4, pp. 174.

48 GRANAT, Mirosław. *Human dignity from Article 30 of the Polish Constitution as a value and as a legal norm*. State and Law, 2014, vol. 8, pp. 11., cf. The Judgment of the Constitutional Court of March 16, 2011, ref. K 35/08.

49 Judgment of the Constitutional Court of April 4, 2001, ref. K 11/00.

50 TULEJA, Piotr. *The Constitution of the Republic of Poland. Commentary*. Warsaw: Wolters Kluwer Publishing house, 2023, pp. 115 – 116.

51 Judgement of the Supreme Court of September 21, 2022, ref. I NSNc 75/21, [online]. Available at: <https://sip-1lex-1pl-1fy8aq6h7023c.han.uksw.edu.pl/#/jurisprudence/523499627/1?directHit=true&directHitQuery=3405931>, accessed: 09.03.2024.

52 DZIEDZIAK, Wojciech. *Human Dignity as the Fundamental of Justice*. Lublin: Maria Curie-Skłodowska University in Lublin: Annales Universitatis Mariae Curie-Skłodowska, 2019, sectio G, Vol. LXVI, 1, pp. 94.

53 Ibidem, pp. 94.

54 GRANAT, Mirosław. *Human dignity as a source of human and civil liberties and rights (remarks against the background of Article 30 of the Polish Constitution)*. Lublin: KUL Law Studies, 2013, vol. 2, no. 54, pp. 28.

Article 30 of the Constitution of the Republic of Poland, it is the foundation and source, making it impossible to consider that any violation of human rights is also a violation of dignity⁵⁵.

5 Dignity as a source of children's rights and freedoms

Children's rights are a set of rights and freedoms of the youngest subjects, which are derived from the generally accepted human rights and freedoms in a given legal order⁵⁶. Thanks to them, it is possible to grant and detail the subjective status of children by defining standards for their functioning in the state and society. They are granted by virtue of inherent human dignity. Children's rights may not be in any way dependent on any factual action or legal regulation aimed at limiting or violating them⁵⁷.

The catalog of children's rights may vary depending on the socio-cultural development of a given society. However, its primary task is to determine what role the child and his rights play in society, the family, the environment from which he comes⁵⁸.

The rights of the child belong to the category of human rights, arising from dignity and the fact that the child is a human being in the first stage of his development⁵⁹. Every human being, regardless of age or stage of development, is entitled to certain freedoms and rights, the foundation of which is dignity⁶⁰. It is impossible to limit the rights of a person, including a child, due to the fact that he has not reached an adequate level of mental or physical development⁶¹. The period of childhood in particular requires that children's rights be realized to the fullest extent, so that, in addition to showing children a good role model and building an appropriate value system, we shape their sense of security and a happy time of adolescence⁶².

A child, as defined by the Polish Law of January 6, 2000 on the Ombudsman for Children, is any human being, from conception to adulthood (Article 2,

55 Ibidem, pp. 28.

56 BABIUCH, Helena. *Constitutional nature and scope of protection of the child's right to education*. Scientific Journals of the Witelon State Higher Vocational School in Legnica, 2008, vol. 4, pp. 4.

57 PIECHOWIAK, Marek. *Preamble*. In SMYCZYŃSKI, Tadeusz. *Convention on the Rights of the Child. Analysis and interpretation*. Poznań, 1999, s. 24.

58 BABIUCH, Helena. *Constitutional nature and scope of protection of the child's right to education*. Scientific Journals of the Witelon State Higher Vocational School in Legnica, 2008, vol. 4, pp. 4.

59 ZEBROWSKI, Jan. *On the dignity of the child and his rights*. Gdansk Studies. Visions and reality, 2019, vol. 6, pp. 27.

60 PIETRZAK, Helena. *Dignity and equality of the child in the family*. Canon Law, Journal of the Cardinal Stefan Wyszyński University in Warsaw, 2019, vol. 62, no. 4, pp. 172.

61 Judgment of the Constitutional Court of May 28, 1998, ref. K 26/96.

62 ZEBROWSKI, Jan. *On the dignity of the child and his rights*. Gdansk Studies. Visions and reality, vol. 6, 2019, pp. 27.

point 1)⁶³. Childhood is the time from birth to the onset of puberty⁶⁴. The rights of the child are under protection as they are explicitly indicated in the Polish Constitution. Article 72 paragraph 1 establishes that “*The Republic of Poland shall ensure the protection of the rights of the child. Everyone has the right to demand that public authorities protect the child from violence, cruelty, exploitation and demoralization.*”⁶⁵. Article 72, mentioned from the Polish Constitution, as it does not clearly and precisely define what children’s rights are and what rights exactly they are entitled to, should be considered in conjunction with Article 37(1) of the Constitution of the Republic of Poland⁶⁶, which is a general regulation of human rights: “Whoever is under the authority of the Republic of Poland shall enjoy the freedoms and rights guaranteed by the Constitution.”⁶⁷. The subjective scope of the aforementioned article is broad and applies to all of society, as well as foreigners and stateless persons. Accordingly, it is a legal norm that also applies to children, who have the opportunity to enjoy the rights and freedoms granted to human beings in general.

The duty to realize and protect the rights of children in Poland rests in particular with parents and legal guardians. However, all rights and freedoms of children deprived of the aforementioned care, should be realized by the actions of state authorities⁶⁸. In this situation, there is a transfer of duties to the authorities, so that no one in the group of the youngest subjects is deprived of the right to realize their rights, due to the dignity granted to them.

The inclusion of children’s rights in the Constitution, in the same chapter on human rights and freedoms, indicates that respect and protection of dignity, also applies to the group of the youngest individuals. However, children may have a different understanding of the value they possess, since a certain amount of experience is needed to understand the purpose of this value. A person learns this skill from an early age, but we perceive it differently at different periods of our lives. However, it is inadmissible to invoke the desire for children’s mental development or increased life experience as part of justifying the fact that their rights and the dignity derived from them have been violated⁶⁹.

63 Act of January 6, 2000 on the Ombudsman for Children’s Rights, Dz. U. 2023, position 292, article 2 point 1.

64 ŻEBROWSKI, Jan. *On the dignity of the child and his rights*. Gdansk Studies. Visions and reality, 2019, vol. 6, pp. 27.

65 Constitution of the Republic of Poland of April 2, 1997, article 72 paragraph 1.

66 BABIUCH, Helena. *Constitutional nature and scope of protection of the child’s right to education*. Scientific Journals of the Witelon State Higher Vocational School in Legnica, 2008, vol. 4, pp. 5.

67 Constitution of the Republic of Poland of April 2, 1997, article 37 paragraph 1.

68 BABIUCH, Helena. *Constitutional nature and scope of protection of the child’s right to education*. Scientific Journals of the Witelon State Higher Vocational School in Legnica, 2008, vol. 4, pp. 4.

69 ŻEBROWSKI, Jan. *On the dignity of the child and his rights*. Gdansk Studies. Visions and reality, 2019, vol. 6, pp. 36.

Human dignity in relation to the youngest is often realized through the satisfaction of psychological, but also material needs⁷⁰. In connection with the above, there is often a dispute in the literature as to whether children's rights are actually realized human rights, or whether they are merely formulated in terms of the most important needs of children, arising during their childhood up to adulthood⁷¹.

For years, the issue of children's rights and the dignity to which they are entitled, was ignored and unnoticed. Today, the rights of the child in most countries around the world are guaranteed in legislation. Some of the main reasons for special protection are the exposure of children to the not always favorable development of the modern world, the difficulty of forming an appropriate value system, as well as the often observed insensitivity of the current times⁷². Accordingly, it can be considered that any theory of human dignity is also applicable to the rights of children, as well as that the value of dignity is entitled to children, regardless of age, origin or gender⁷³. Protecting the dignity of children and their rights can contribute to this group's understanding of their role and place in society⁷⁴.

Due to the dependence and immaturity of this group of the youngest subjects in the realization of their rights during childhood, it is the responsibility of adults, especially parents and public authorities of the state, to respect and protect the dignity of children⁷⁵. It is they who are required to care for and protect the rights of children, their place in society⁷⁶. At the same time, the granting of subjective status and the protection of children's rights, results in those responsible for the actual realization of their rights being constrained in their actions, while at the same time having an obligation to respect and realize them⁷⁷. This often causes a problem on the part of those responsible as to how they should act so that both the rights of children are realized, but not abused or restricted. The provisions of the Polish legal order, but also international regulations, protect children from inappropriate actions of older people, actually enforcing their rights (most often parents), who in the course of exercising the rights of the youngest are at the same time obliged to comply with additional criteria for their protection and privileged

70 DZIEDZIAK, Wojciech. *Human Dignity as the Fundamental of Justice*. Lublin: Maria Curie-Skłodowska University in Lublin: Annales Universitatis Mariae Curie-Skłodowska, 2019, sectio G, 2019, Vol. LXVI, no. 1, pp. 90.

71 BABIUCH, Helena. *Constitutional nature and scope of protection of the child's right to education*. Scientific Journals of the Witelon State Higher Vocational School in Legnica, 2008, vol. 4, pp. 5.

72 ŻEBROWSKI, Jan. *On the dignity of the child and his rights*. Gdansk Studies. Visions and reality, 2019, vol. 6, pp. 35.

73 PIETRZAK, Helena. *Dignity and equality of the child in the family*. Canon Law, Journal of the Cardinal Stefan Wyszyński University in Warsaw, 2019, vol. 62, no. 4, pp. 175.

74 ŻEBROWSKI, Jan. *On the dignity of the child and his rights*. Gdansk Studies. Visions and reality, 2019, vol. 6, pp. 35.

75 Ibidem, pp. 32.

76 Ibidem, pp. 35.

77 BABIUCH, Helena. *Constitutional nature and scope of protection of the child's right to education*. Scientific Journals of the Witelon State Higher Vocational School in Legnica, 2008, vol. 4, pp. 4.

position, which is caused by the weakness and awkwardness of children⁷⁸. Due to the inherent dignity of the human being, it is forbidden to prejudice children, disregard and, above all, violate their rights, as well as violate their autonomy and the most important human value, which is dignity⁷⁹. Parents, in the course of their actions towards children, should be guided in particular by legal regulations that normalize the scope of their parental authority, as well as should take into account in their decisions the constitutional principles, rights and freedoms of children⁸⁰. It is indisputable that children are subjects of the law, actively participating in society, although the indicated participation is not always noticeable⁸¹. In view of the above, any educational activities that undeniably violate the dignity of children are not excusable. An example of such actions is the use of corporal punishment against the youngest (Article 96¹ of the Family and Guardianship Code: "Persons exercising parental authority and having the care or custody of a minor are prohibited from using corporal punishment."⁸² in conjunction with Article 40 of the Constitution of the Republic of Poland, which states that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Corporal punishment shall be prohibited."⁸³). The above legal norm specifies that in the process of upbringing it is important, first of all, to see the child as a human being⁸⁴.

Accordingly, as in the case of human rights, when establishing and applying children's rights, we should subordinate and consider them on the basis of the human dignity they possess. Under no circumstances should the dignity of children be restricted due to the fact that they have fewer rights, or due to the frequent helplessness of children in asserting their rights. The family is the environment with which a young person first comes into contact⁸⁵. Therefore, it is important to properly guide his upbringing process. Raising children with respect for their dignity adequately influences their development and stimulates the ever-developing reason, shapes character in accordance with moral attitudes. It is important to ingrain in the youngest individuals the values that should guide them, and one of the fundamental of these is respect for the dignity of the other person. The dignity of a human being is the basis of their upbringing. Due to the vulnerability of children in asserting their rights, a child's dignity can easily be

78 Ibidem, pp. 4.

79 PIETRZAK, Helena. *Dignity and equality of the child in the family*. Canon Law, Journal of the Cardinal Stefan Wyszyński University in Warsaw, 2019, vol. 62, no. 4, pp. 185.

80 Ibidem, pp. 185.

81 ZEBROWSKI, Jan. *On the dignity of the child and his rights*. Gdansk Studies. Visions and reality, 2019, vol. 6, pp. 36.

82 Act of February 25, 1964. Family and Guardianship Code, Dz. U. 2023, position 2809, article 96¹.

83 Constitution of the Republic of Poland of April 2, 1997, article 40.

84 PIETRZAK, Helena. *Dignity and equality of the child in the family*. Canon Law, Journal of the Cardinal Stefan Wyszyński University in Warsaw, 2019, vol. 62, no. 4, pp. 187.

85 SMERCZYŃSKA, Maria W. *The role of the family in the development of children and the protection of their rights*. In KOWALEWSKA, Ewa, WYSZYŃSKA, Małgorzata. *International Congress on the dignity of the child*. Gdańsk, 2000, pp. 42.

violated, mistaking it for their upbringing. And all people, as subjects of the law, are equal in their dignity, including children.

6 Dignity as a source of children's rights and freedoms in international perspective

Human dignity is also guaranteed in acts of international law, such as the Universal Declaration of Human Rights, the Charter of Fundamental Rights. Similarly, it has been regulated in the context of the youngest individuals, as the Convention on the Rights of the Child of November 20, 1989 contains a legal norm that states that “*considering that, in accordance with the principles embodied in the Charter of the United Nations, the 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*”⁸⁶.

The above-mentioned legal acts, adopted by a number of countries around the world, have been written in a way that unifies the matter of human dignity in other national regulations⁸⁷. Common and standardized legal norms around the world make it possible to demand respect for the dignity of children, but also adults, regardless of where they are.

The Convention on the Rights of the Child provides a model for other legislation around the world in the context of creating children's rights⁸⁸. Regional human rights systems can draw on the regulations of the indicated convention, which defines the rights of children in a detailed and precise manner, while analyzing their needs and bearing in mind the special protection they are covered.

Today, the system of children's rights nationally and internationally is more formed and concretized than in earlier years. The rights of children in many legal systems of countries around the world are regulated in the highest-ranking laws or constitutions, or special laws, as well as in charters of children's rights created separately⁸⁹. Particular attention is paid to the subjectivity of children and the need to provide them with special legal protection.

7 Conclusion

In Poland, children's rights are guaranteed both in the Constitution, as well as in the Law on the Ombudsman for Children and other special laws. All the rights of children indicated in legal acts are inextricably linked to the need to respect the human dignity granted to them and are subject to special protection.

86 Convention on the Rights of the Child of November 20, 1989, Dz. U. 1991, no. 120 position 526, Preamble.

87 DZIEDZIAK, Wojciech. *Human Dignity as the Fundamental of Justice*. Lublin: Maria Curie-Skłodowska University in Lublin: Annales Universitatis Mariae Curie-Skłodowska, 2019, sectio G, Vol. LXVI, 1, pp. 93.

88 BABIUCH, Helena. *Constitutional nature and scope of protection of the child's right to education*. Scientific Journals of the Witelton State Higher Vocational School in Legnica, 2008, vol. 4, pp. 5.

89 Ibidem, pp. 5.

Children are a group of subjects who deserve exceptional respect for their rights. In their actions, they are often characterized by helplessness and dependence, which also translates into the self-fulfillment of their rights. The process of upbringing, as well as the very transmission of models to children in childhood, should be based on moral values and attitudes, which find their source in the inherent dignity of man. From an early age, children should be taught to respect their own and other people's dignity, as well as how to distinguish good acts from bad ones and how to realize the human rights granted in legal norms. The youngest are subjects of the law who, despite their inability to realize their dignity-based rights on their own, deserve special protection from abuse and restrictions.

It is indisputable that the dignity of human beings, including children, should be recognized as a fundamental value in the legal system, and it affects the formation of people's rights and freedoms. Children are human beings who are full-fledged and are entitled to the same social status and the same need to protect their dignity as the rest of society.

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