

Chapter 1 : Dignity and Equality | KidSpirit

In seeking to implement an approach to equality that addresses the history of apartheid and the social and economic inequality endemic in South African society, the South African Constitutional Court has rejected formal equality, and is in the process of developing a substantive interpretation of equality based on the protection of human dignity.

Human Dignity Global Beat Sometimes in communities there are conflicts. Small conflicts happen often between my friends, usually because of a misunderstanding that causes hurt feelings. Rarely do my friends try to hurt anyone on purpose. Yet conflict can result in the loss of dignity because negative behavior hurts others. Sometimes stubbornness, pride, and fear lead to a fight. Sometimes my community takes sides when there is a conflict between two classmates. This explosion of the conflict between two kids results in even more conflict throughout the school community. Gossiping about an event or retelling misleading interpretations of it create further troubles. In some instances, the community excludes the person they side against. This exclusion is hurtful because it isolates someone from the community. Racism is a form of exclusion and is used as a way to oppress people. No one should be treated this way. It is hard to maintain your self-worth when you are excluded. Respect for dignity can be grown by treating everyone the same, regardless of appearance or age. Differences should be celebrated. If someone makes a mistake, do not judge. Do not take sides. It is important to respect one another under all circumstances. When there is conflict in my community, I think that the thing to do is to hear the story from both friends and respect what each is saying. When I am involved in a conflict, I explain my feelings, then I listen to my friend. I try hard to understand what my friend is telling me. This is being respectful. Being respectful builds trust. Respecting people and treating them equally creates an environment where dignity is honored. I try to treat everyone the way I would want to be treated. I try not to incite anger. I give my friends space and time to feel their feelings. If I had a wish, I would wish that the world had less conflict, and that everyone in the world were treated equally well, so that all felt their dignity. Daniel Goetz is 12 years old and lives in Brooklyn, New York. He loves to play video games, make animation projects, and spend time with his family.

Chapter 2 : Dignity, equality and Human Rights for all

Request PDF on ResearchGate | Dignity and Equality | Inequality remains one of the most challenging issues on the global human rights agenda. It is widely recognised that a formal approach to the.

Government Equalities Office Direct discrimination occurs when someone is treated less favourably than someone else in similar circumstances on the grounds of a protected characteristic. Indirect discrimination occurs when a condition or requirement is applied equally to everyone but some are unable to comply because of a protected characteristic. This would be unlawful unless the condition or requirement is objectively justifiable. The Equality Act replaces previous anti-discrimination legislation and regulations including: Regulations that prohibit discrimination in employment: Employment Equality Sexual Orientation Regulations Employment Equality Religion or Belief Regulations Employment Equality Age Regulations “ prohibit discrimination in employment on grounds of age for those of working age, it is irrelevant whether the discrimination is because you are young or old. Age discrimination People in employment are already protected against age discrimination. A ban on age discrimination in the provision of services and public functions for adults is included in the Equalities Act and was implemented from October There are no specific exceptions to the ban on age discrimination for health or social care services. This means that any age-based practices by the NHS and social care organisations would need to be objectively justified, if challenged. Home Office guidance Carers Carers provide care for a relative, friend or neighbour in need of support on an unpaid basis. The law protects carers from discrimination through association with the person they care for. Carers are protected from discrimination at work. They have the right to request flexible working so that they can manage their caring responsibilities. They have the right to time off in emergencies or to deal with unforeseen matters, however there is no right to be paid for this time. Carers are also protected when they receive goods, services and facilities. There are legal responsibilities to carers and some of these are contained in the following Acts: There may be circumstances in which responsibilities to carers appear to conflict with the human rights of the cared-for person. If a person lacks the capacity to make a decision or to consent to care and treatment, then the provider of health or social care services must act in the best interests of that person. If there is a conflict among the views of relatives or friends “ or between them and involved professionals “ about what would be in the best interests of the person, this must be resolved. The best practice is to seek independent advocacy and separate practitioners for both parties. Mediation or family group conferences may be helpful in resolving the conflict. What do I need to know as a carer? The Equality Duty intends to ensure that public bodies are proactive in eliminating unlawful discrimination, advancing equality of opportunity and fostering good relations. They must consider equality issues in everything they do with regard to the protected characteristics. This is very relevant to dignity in care as it means the local authority has a duty to consider the diverse needs of the individuals they serve, minimising disadvantage and ensuring the inclusion of under-represented groups. It must ensure that those organisations carrying out duties on its behalf also comply with this duty. Service providers must comply with equalities law and the commissioning authority must ensure providers are able to meet the requirements of the law. A quick start guide for public sector organisations The legal mechanisms for enforcing equalities law The Equality Act applies to all those providing goods, services and facilities in Great Britain. An individual claiming discrimination can go to the employment tribunal or county court. The judge would decide whether discrimination has occurred. It has the ability to investigate public bodies and go to judicial review if necessary. Discrimination in employment can be taken to an employment tribunal. If the discrimination takes place outside the employment field, for instance in connection with the provision of care services, the case can be brought to the county court. Proceedings have to be started within six months of the last act complained of, or eight months in the case of discrimination in education. The court can order damages to be paid, including compensation for distress to feelings. It can also order an injunction requiring the discriminator to do something or stop doing certain acts.

Chapter 3 : How To Promote Equality and Diversity in Health and Social Care |

Promoting equality, dignity and respect is the key to not only a productive workforce but productive collaborative relationships in general. Some Definitions Equality is about 'creating a fairer society, where everyone can participate and has the opportunity to fulfil their potential' (DoH,).

Advanced Search Abstract Inequality remains one of the most challenging issues on the global human rights agenda. It is widely recognised that a formal approach to the assessment of inequality has failed to eliminate entrenched structural social and economic inequality and that a different approach is required in order to tackle the roots of inequality and achieve substantive equality. In seeking to implement an approach to equality that addresses the history of apartheid and the social and economic inequality endemic in South African society, the South African Constitutional Court has rejected formal equality, and is in the process of developing a substantive interpretation of equality based on the protection of human dignity. Critics of this approach have argued that the concept of human dignity is too indeterminate to provide a stable foundation for equality law and that it promotes an excessively individualistic conception of equality. Focussing on key developments in defining human dignity in German and South African constitutional law, this article argues that the concept of dignity is rooted in a rich tradition which is capable of underpinning an approach to equality which avoids excessive individualism and fully recognises the interplay between individual and community needs. A detailed exploration of the equality jurisprudence of the South African Constitutional Court reveals how the dignity-based approach has been developed in order to provide a framework within which the actual experience of victims of discrimination can be explored. It is concluded that this approach has the potential to engage with the realities of the wide range of divisions within South African society and their effects in order to address not only the legacy of apartheid but also to contribute to the creation of a society in which every person is valued equally. Since then the right to equality and the prohibition of discrimination have been incorporated into an array of constitutional and international instruments. Yet, inequality in many guises remains stubbornly entrenched in all societies. The 21st century has seen renewed efforts on the part of both theorists and practitioners to develop new approaches to equality. Objections raised by critics centre on the perceived indeterminacy of the concept of human dignity and what some theorists consider to be its excessive individualism. Section 2 provides an overview of the role of human dignity in international human rights law and in comparative constitutional law, using Germany as an example. Section 4 assesses the extent to which the concerns of critics of a dignity-centred approach to equality have been addressed. International and Comparative Perspectives on Human Dignity As Frowein notes, ideas of human dignity underpinned a number of developments in international law from as early as the 16th century. However, the post-war usage of the concept in international and comparative human rights law is specifically associated with the need to respond to the horrors of the war and, above all, the Holocaust. The second ascribes the terrible events of the Second World War specifically to disregard for human rights. Prior to the drafting of the UDHR, the Charter of the United Nations invoked the concept of human dignity in its preamble, again clearly linking human dignity and human rights and again referring to the recent experience of the war: We the Peoples of the United Nations determined, to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person. The Charter is clear that the intention of the United Nations is not simply to regulate the relations between states for the prevention of war, but to establish a new world order based on the recognition and protection of the rights and dignity of human beings. The importance of human dignity as the cornerstone of international human rights law has been confirmed by numerous international human rights instruments. The recent identification of human dignity as one of the foundational values of the European Union in the new Constitution for Europe 22 underlines its importance in the European context. There is, in the formulation of the concept in both documents, an underlying assumption that the meaning of human dignity was known. But if this is true, what was the source of such knowledge? It is arguable that knowledge of the concept of human dignity at the time was derived from at least three sources. In relation to the drafting

of the Charter and UDHR it is clear that the immediate history of the catastrophic events of the war played an important role. Secondly, however, the interpretation of those events would undoubtedly have relied on ideas derived from a range of philosophical, theological and political traditions. Historically, the development of the idea of human dignity is inextricably linked to the emergence of individualism. Within western philosophy the rise of individualism is traced back to the Greek philosophers of the fifth and fourth centuries BC. It was the Stoics who first made the connection between the idea that individuals were reasonable beings who should be respected and the notion of a universal system of rules or law of nature. Human nature, in Stoic terms, was characterised by reason. It was this quality that distinguished man from animals. Because all men had reason, they were all equal and worthy of respect. This is the basis of human dignity. In this view, man shares a common humanity and occupies a unique position within the universe. Moreover, since man is created in the image of God, each individual is seen as valuable in his or her own right. A secular version of natural law developed by, amongst others, Samuel Pufendorf relied on the Stoic concept of human dignity as derived from reason rather than being given by God. Those ideas are that human dignity is inherent or intrinsic; that because it is inherent, human dignity is inalienable; that all human beings are equal in dignity; and that human dignity is the basis for human beings having human rights—in other words, that human rights are derived from human dignity. This view of the meaning and role of human dignity is reflected in the way in which the UDHR itself refers to the concept. All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards another in a spirit of brotherhood. Human dignity is thus not dependent on either state recognition or religious endorsement. Article 1 also clearly states the principle of equality of dignity, an idea inherent in an understanding of dignity as relating to the value or worth of each individual as a human being. Closely related to this is the connection made in Articles 22 and 23 of the UDHR between dignity, autonomy and socio-economic circumstances. While there is thus a basic core of ideas associated with the concept of human dignity that can be derived from the history and formulation of key human rights instruments, dignity does not play the role of a substantive norm in the UDHR. At the same time, as the source of human rights, human dignity is invoked as a benchmark against which the application of human rights standards can be measured. This presupposes an ongoing process of elucidation of the concept through political practice. In interpreting the meaning of dignity, national courts draw on a range of sources, including the history of the concept, comparative approaches, the facts of the case and the local context. It is thus ultimately in the practice of human rights in national jurisdictions that the contemporary legal meaning of dignity is most clearly articulated. In national constitutions, the concept of human dignity often plays a dual role. It is frequently invoked as a background value—a role similar to that played in international human rights law. It also often appears as a substantive right. The Constitution is historically linked with the UDHR, drafted at about the same time, against the backdrop of the events of the war and in the context of similar philosophical influences. The role of the constitutions in both countries, and more particularly the invocation of the concept of human dignity, was, and is, explicitly transformative. The common denominator is the need to address the legacy of cruel and dehumanising regimes. The dignity of man is inviolable. To respect and protect it is the duty of all state authority. The German people therefore acknowledge inviolable and inalienable human rights as the basis of every community, of peace and of justice in the world. The Basic Law contains principles which can only be explained by the historical experience and by the moral-ethical recollection of the past system of National Socialism. The almighty totalitarian state demanded limitless authority over all aspects of social life and, in pursuing its goals, had no regard for individual life. In contrast to this, the Basic Law established a value-oriented order which puts the individual and his dignity into the very center of all its provisions. The relevance of human dignity is, therefore, not limited to the application of Article 1, but pervades the jurisprudence of the Federal Constitutional Court. Like the UDHR, the concept of dignity is expressed in neutral terms in the German Constitution, rather than being linked to any particular philosophical position. Most notable of these is Kantian moral philosophy. However, the duty to respect and protect human dignity has not been developed as a free-standing positive right. Rather, the right to human dignity has been developed primarily in conjunction with the three freedoms expressed in Article 2: But the exercise of freedom and autonomy is limited to what is compatible with the same rights of others. Integral to

Kantian philosophy is the duty to respect human dignity, both in ourselves and in others. Closely connected, or perhaps simply another facet of the same idea, is the strong relationship acknowledged by the German Constitutional Court between the concept of personhood and the social community. This is, perhaps, most forcefully expressed in the Life Imprisonment Case. The free human person and his dignity are the highest values of the constitutional order. The state in all of its forms is obliged to respect and defend it. This is based on the conception of man as a spiritual-moral being endowed with the freedom to determine and develop himself. This freedom within the meaning of the Basic Law is not that of an isolated and self-regarding individual, but rather [that] of a person relating to and bound by the community. This means that [the state] must regard every individual within society with equal worth. It is contrary to human dignity to make persons the mere tools of the state. But the idea that the freedom of the individual is to be exercised, and therefore judged, within the context of the community is a recurring theme. It is enshrined both as an underlying value and as a right. The South African Constitution is more explicit than its German counterpart, however, in identifying a set of fundamental constitutional values and in specifying a role for such values. In section 7, the Bill of Rights is introduced and a clear connection between dignity and human rights established: This Bill of Rights is a cornerstone of democracy in South Africa. It enshrines the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom. Section 39 gives precise instructions regarding the practical application of the identified constitutional values, stating: When interpreting the Bill of Rights, a court, tribunal or forum “must promote the values that underlie an open and democratic society based on human dignity, equality and freedom; must consider international law; and may consider foreign law. When interpreting any legislation, and when developing the common law or customary law, every court, tribunal or forum must promote the spirit, purport and objects of the Bill of Rights. There are many similarities between the South African and German Constitutions that are important for an understanding of human dignity. As in Germany, the role of the Constitution is plainly transformative. The South African Constitutional Court has, in numerous cases, emphasised the importance of the history of apartheid in the conception and formulation of the Constitution and its role in creating a new society. Respect for the dignity of all human beings is particularly important in South Africa. For apartheid was a denial of a common humanity. Black people were refused respect and dignity and thereby the dignity of all South Africans was diminished. The new Constitution rejects this past and affirms the equal worth of all South Africans. Thus recognition and protection of human dignity is the touchstone of the new political order and is fundamental to the new Constitution. Moreover, its relevance is not confined to the Bill of Rights, or even the Constitution, but is integral to legal interpretation at every level, as required by section 39 2. Roederer argues that the constitutional values identified in the Constitution provide a stable basis for the transformation of South African law because those values are rooted not only in the struggle for democracy but also in an established human rights tradition. However, the contours of the concept appear from how the rights in question have been implemented in practice. In this sense, the demand is for recognition of a common humanity and entitlement of each person to basic respect. While in Makwanyane this is specifically linked to the eradication of the legacy of racial discrimination, the Court has demonstrated its application in other contexts. As in the UDHR, where, as noted earlier, a connection is made between dignity and socio-economic circumstances, 78 there is in the jurisprudence of the South African Constitutional Court a clear recognition of the physical dimension of human dignity. Respect for human dignity requires that persons should not be demeaned or treated as if they have no value.

Chapter 4 : Equality, Diversity, Dignity and Respect

Dignity & Equality and the Human Spirit In this People Skills global Twitter chat we will focus on dignity and equality in special celebration of Black History Month. Before we engage on Sunday in #PeopleSkills global Twitter chat, here are some questions to get us thinking.

Messenger If you want economic change in South Africa, create a crisis – then stand by to negotiate a way out of it. Not because, as some fear, it will radically change the constitution. Rather, it tells South Africans how, in the economy and other spheres, the country deals with its minority ruled past: Crises are the only way change happens because, since the s, the goal of the minority which has called the shots in the society for decades has been to ensure that changes alter as little as possible. Which, of course, means clinging to many of the inequalities which existed before all adults were allowed to vote in So most businesses – and professional practices and places of learning - do not change until a crisis forces them to look again at what they need to give up to keep things as much the same as possible. The negotiations which produced the constitution began because the costs of black anger at apartheid were growing. They followed reforms to labour law, which were triggered when angry strikers in Durban demanded pay increases in , and the end of curbs which kept black people out of the cities, a reaction to the anger of the Soweto protests and the refusal of angry migrant workers in the same year to live in single-sex hostels. Recently, it took angry protests on campuses to trigger discussions at universities on how to change to meet the needs of black students. Race is debated seriously only when black people get angry over racial prejudices in advertising or company behaviour or on social media. This is particularly so in the economy: Moves to change the constitution are dramatic because they threaten the property rights on which the market economy rests. They are, therefore, the most significant expression of black anger at the survival of pre inequalities since South Africa became a democracy. Inevitably, they have prompted a crisis: The debate is polarised and heated – but among middle class black people, support for the change seems overwhelming. For most people, it has nothing to do with agriculture at all. Historically, the demand by black freedom movements for the return of the land meant the return of the country to its people – it was directed not only at ownership of farms but at minority control of the economy and society. This is why expropriation without compensation has become a rallying cry for many who have no interest in farming but who feel that a quarter century of democracy has not ended white privilege. It symbolises a much broader demand for change. It is also why no-one has paid much attention to arguments about the technical merits of land expropriation and why there is such support for a constitutional change despite the fact that there is no need for it because expropriation without compensation is possible now. Property rights are protected by Section 25 of the constitution which stipulates that compensation must be paid. But it also says that this may not be used to impede the state from taking legislative and other measures to achieve land, water and related reform, in order to redress the results of past racial discrimination. So, if the government can show that expropriation redresses race discrimination, it need not pay compensation. But this has been ignored because the dispute is about dignity and equality, not constitutional clauses. Compromises will be made Like all South African crises, this one will end in a compromise – its details have been discussed by lawyers and reported by newspapers. It seems likely that Section 25 will be changed to allow for expropriation without compensation. But the clause will specify very clearly that this can only happen in very particular circumstances, which it will carefully define. If it does this, property rights will be protected because owners will know that they are entitled to compensation unless they act in a way which forfeits their right. It seems likely that investors will not have to do much to retain the right to compensation. On the surface, this, like all good compromises, will solve the problem by giving both sides some of what they want. Land owners who hold the state to ransom will risk losing compensation; property rights will be protected, making investment safe. But, if that is all that happens, an opportunity will be missed. Past wrongs need to be addressed Crisis drives change because elites have avoided negotiating economic reforms which will redress past wrongs while protecting the assets of investors who play by the rules. This forces black people to get angry if they want to be heard and will create new crises if it is not addressed now. Since the

dispute is really about the economy, the solution lies in negotiating the economic changes which cause the anger in the first place. This alone will reduce the anger which makes crisis the only mode of change and ensure a less dramatic but more lasting way of addressing economic challenges.

Chapter 5 : Project MUSE - Dignity, liberty, equality: A fundamental rights triangle of constitutionalism

Abstract. Inequality remains one of the most challenging issues on the global human rights agenda. It is widely recognised that a formal approach to the assessment of inequality has failed to eliminate entrenched structural social and economic inequality and that a different approach is required in order to tackle the roots of inequality and achieve substantive equality.

Humiliation Violations of human dignity in terms of humiliation refer to acts that humiliate or diminish the self-worth of a person or a group. Acts of humiliation are context dependent but we normally have an intuitive understanding where such a violation occurs. Degradation Violations of human dignity as degradation refer to acts that degrade the value of human beings. These are acts that, even if done by consent, convey a message that diminishes the importance or value of all human beings. They consist of practices that human beings should not be subjected to, regardless of whether subjective humiliation is involved, such as selling oneself to slavery, or when a state authority deliberately puts prisoners in inhuman living conditions. Dehumanization These are acts that strip a person or a group of their human characteristics. It may involve describing or treating them as animals or as a lower type of human beings. This has occurred in genocides such as the Holocaust and in Rwanda where the minority were compared to insects. Some of the practices that violate human dignity include torture , rape , social exclusion , labor exploitation , bonded labor , and slavery. Relative poverty , on the other hand, is a violation because the cumulative experience of not being able to afford the same clothes, entertainment, social events, education, or other features of typical life in that society results in subtle humiliation; social rejection; marginalization; and consequently, a diminished self-respect. Another example of violation of human dignity, especially for women in developing countries, is lack of sanitation. Having no access to toilets leaves currently about 1 billion people of the world with no choice other than to defecation in the open , which has been declared by the Deputy Secretary-General of the United Nations as an affront to personal dignity. The movie The Magic Christian depicts a wealthy man Peter Sellers and his son Ringo Starr who test the limits of dignity by forcing people to perform self-degrading acts for money. The Simpsons episode " Homer vs. Dignity " has a similar plot. In his " Oration on the Dignity of Man ", he told hostile clerics about the dignity of the liberal arts and about the dignity and the glory of angels. His comments implied the dignity of philosophers. Adler wrote that the only sense in which it is true that all human beings are equal is that they are equally distinct from animals. As he argues, "it seems that it is this very nature of the concept that has allowed, on the one hand, human rights to receive such international acceptance as a theoretical enterprise and, on the other hand, has led the concept to be constantly challenged by different cultures worldwide. Individuals such as these are presented as role-models of dignity because they did not abandon their self-respect by bowing to social pressures. When faced with the fear of disapproval, poverty, hunger, death etc. Such a person has grasped the most trustworthy support which will never fail him" Quran God awarded these individuals with authority and status in the land, and this reward is open to anyone who proves themselves worthy: We have done so because We keep those who lead their lives according to Divine guidance safe from such mishaps. Elaborations on dignity have been made by many scholars of Islam, such as Mohammad-Ali Taskhiri , head of the Islamic Culture and Communications Organization in Iran , in According to Taskhiri, dignity is a state to which all humans have equal potential, but which can only be actualized by living a life pleasing to the eyes of God. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Everyone is entitled to all the rights and freedoms set forth in this Declaration , without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. It has been invoked in questions of the bioethics of human genetic engineering , human cloning , and end-of-life care particularly in such situations as the Terri Schiavo case , a controversial situation in which life support was withdrawn from a woman diagnosed in a persistent vegetative state. The Declaration says at article 11, "It is the duty of physicians who participate in medical research to protect the life, health, dignity, integrity , right to self-determination , privacy , and confidentiality of personal information of research subjects. Conscious of the

accelerating developments in biology and medicine; Convinced of the need to respect the human being both as an individual and as a member of the human species and recognising the importance of ensuring the dignity of the human being; Conscious that the misuse of biology and medicine may lead to acts endangering human dignity; Resolving to take such measures as are necessary to safeguard human dignity and the fundamental rights and freedoms of the individual with regard to the application of biology and medicine. The Convention states, "Parties to this Convention shall protect the dignity and identity of all human beings and guarantee everyone, without discrimination, respect for their integrity and other rights and fundamental freedoms with regard to the application of biology and medicine. At Article 2, the declaration states, "Everyone has a right to respect for their dignity. The report used "the principles of respect for human life and dignity" as its reason for recommending that various activities associated with genetic research and human reproduction be prohibited. The report said the prohibited activities were "contrary to Canadian values of equality and respect for human life and dignity. The Council advises the Ministry on matters of medicine and genetic research on humans. In , the Council condemned "reproductive cloning because it would violate human dignity, because it could have adverse consequences for the cloned person and because permitting research on reproductive cloning would reflect a disregard for the respect due to the moral status of embryos. In , the CCNE said, "Respect for human dignity must guide both the development of knowledge and the limits or rules to be observed by research. The opinion states, "the cloning of human beings, because of the problems it raises concerning the dignity of the human person, the equilibrium of the human species and life in society, is ethically unacceptable and must be prohibited.

Chapter 6 : Why Human Dignity - Human Dignity Trust

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Under the heading of "Equality Rights" this section states: The reason for these additions was to encourage a generous reading of section Lavell and Bliss v. Canada , Supreme Court Justice Roland Ritchie had said only the application, and not the outcome, of the law must be equal, thereby necessitating an explicit guarantee of equality under the law; and that legal benefits need not be equal, thereby necessitating an explicit guarantee of equal benefit of the law. The reason for this was so that provincial and federal governments would have enough time to review their legislation and make the appropriate changes to any discriminatory laws. Canada , [] To that end, the Charter recognizes four dimensions of equality, including substantive equality. Equality before the law is equality in the administration of justice, where all individuals are subject to the same criminal laws in the same manner by law enforcement and the courts. Equality under the law is equality in the substance of the law, where the content of the law is equal and fair to everyone so that everyone experiences the same result. Equal benefit of the law ensures that benefits imposed by law will be proportionate. Equal protection of the law ensure that the protections imposed by law will be proportionate so that the human dignity of every person is equally safeguarded by the law. Unlike formal equality, which overlooks personal differences, substantive equality is concerned with the impact of the law on different groups of individuals. Substantive equality requires that there be an equal impact on the person affected by the law. Application of section fifteen[edit] In any challenge of section 15 1 the burden of proof is always on the claimant. The Supreme Court of Canada has endorsed a purposive interpretation of Section Current interpretation[edit] After Law v. Canada the question of whether dignity was affected was key to a section 15 analysis. Kapp , the problems with the dignity analysis were recognized and the dignity analysis was jettisoned. The Court established a two-part test based on the one found in Andrews v. Law Society of British Columbia In Quebec Attorney General v. A a majority of the Court found that perpetuating prejudice or stereotyping did not form an additional requirement in the second part of the test. The majority itself split on the correct way to apply the second part of the test, leaving the present state of the law on Section 15 unclear. Enumerated or analogous grounds[edit] Discrimination based upon sexual orientation is an analogous ground for discrimination, leading all but two provincial courts to legalize same-sex marriage in Canada. The concept of enumerated or analogous grounds originated in the essential Andrews case to refer to personal characteristics that, when being the basis of discrimination, show the discrimination is unconstitutional under section There are nine enumerated grounds explicitly mentioned in section 15, although they are not actually numbered. In practice, the enumerated grounds have been given liberal and broad interpretations. For example, discrimination on the basis of pregnancy has been ruled to be sex discrimination Brooks v. A personal characteristic is considered analogous to the ones enumerated in section 15 if it is "immutable" or cannot be changed or can only be changed at excessive cost constructively immutable. Thus far, several analogous grounds have been identified:

Presiding Officer. I have great pleasure in opening today's debate on dignity, equality and human rights for all. The Universal Declaration of Human Rights - proclaimed by the United Nations General Assembly in - articulates a self-evident truth.

Staff within the health and social care sector has a duty to promote equality and diversity across all areas of their work, providing a service that is fair, personalised and diverse. Equality and diversity are key components in the delivery of quality health and social care services and good practice should encourage and promote these values as much as possible. A health and social care worker should ensure that through their work, service users are treated fairly and equally and each service user they are responsible for is treated with dignity and respect. Equality and diversity should never be viewed as a bonus in terms of service delivery; it should be an integral part of service planning.

Defining Equality and Diversity

Before you can start to actively promote equality and diversity within a health and social care setting, it is important to understand what they mean:

- Equality** – Ensuring that all service users can access the same opportunities regardless of their lifestyle, ability or background
- Diversity** – Demonstrating respect for individual beliefs, values, cultures and lifestyles and appreciating difference

To learn more about Equality and Diversity why not take out 30 minute course to enhance your knowledge

Common Core Strategic Principles

All leaders within the health and social care sector have a duty to promote diversity and equality across each business area. This involves organising care and support packages which are tailored to the individual requirements of the service user, recognising differences and reducing inequality. Within the health and social care sector, providers are strongly encouraged to implement the Common Core Strategic Principles. These principles outline a consistent approach to care provision which ensures that equality and diversity are taken into consideration and they are at the forefront of all decisions at a strategic level. The Common Core Strategic Principles include

- Commitment to Equality, Diversity and Human Rights Values** – Any health and social care provider should promote equality and diversity through their mission statement, core values and strategic action plans.
- Promoting Equality, Diversity and Human Rights in Decision Making** – Managers should ensure that decision making, partnership working and governance all promote equality and diversity through the implementation of robust organisational policies and procedures which are consistently applied in each business area. Any barriers which may prevent a service user from accessing what they need should be identified and removed. These principles provide a comprehensive framework which enable providers to deliver the right support within health and social care and to ensure that equality and diversity are at the centre of strategic decision making. Furthermore, the promotion of equality and diversity within the workplace is often about the prevention of discrimination even if this is unintentional.

Equality, Diversity and the Law

In order to promote equality and diversity it is important that you understand the various pieces of legislation which relate to health and social care settings:

- The Equality Act** – Safeguards against discrimination for people who possess one of the nine protected characteristics. Fairness, Respect, Equality, Dignity and Autonomy.
- The Mental Capacity Act** – Most relevant to equality and diversity is the Deprivation of Liberty Safeguards which promote the dignity, independence and rights to freedom for individuals who lack the capacity to do so.
- The Care Act** – Within this Act there are six principles which establish the foundations for all work with vulnerable adults, ensuring that the care provided for them is tailored to their requirements.

Strategies for the Promotion of Equality and Diversity

Being able to promote equality and diversity in the workplace is so important. All employees should have a comprehensive understanding of the principles, practices and legislation so they can properly apply them in their day to day activities. Without a fundamental understanding of equality and diversity it can be very difficult to actively promote it in the sector. There are several strategies that you can implement to effectively promote equality and diversity including:

- The development of an equality and diversity policy** Ensuring that your workforce have read and understand the policy
- Providing all staff with the opportunity to complete equality and diversity training** as part of their induction and provide regular refresher training to reflect changes in legislation
- Promoting individual**

requirements and developing tailored care plans Finding out what your service users expect from the services that they are accessing. By keeping their requirements at the forefront of care planning you can provide a tailored package of care which will always be in the best interests of the service user. Ways of Working Establish ways of working which are not discriminatory, provide person centered care and work in a non judgmental manner. Value Diversity Employees should be encouraged to value diversity and respect the attributes that make people different. Individual care plans should be developed to reflect the likes, dislikes, personal history and beliefs of the individual. Code of Conduct One of the best ways in which you can promote equality and diversity is to comply with the health and social care code of conduct. In this industry, a code of conduct or code of practice will define the standards that health and social care workers must meet to provide the right level of support. In health and social care the code of conduct outlines the following key principles: In order to ensure the delivery of person centred care then please do take our Care Certificate Standards Course.

Chapter 8 : Dignity in care - Key legislation: Equality Act

Dignity is defined as a moral, legal, ethical or political term that means a being has an innate right to be treated equitably. Every human being has the basic right of equality, respect, freedom, acceptance, and to think, express his moral beliefs.

Almost everything else we need to do in the world of government and public policy and legislation - and in our roles as elected representatives - can be derived directly from our acceptance of that single sentence. In fact, nothing that we do, and nothing that we seek to achieve, can ultimately have meaning if it does not strive "above all else" to give practical effect to the principles of freedom and equality, to human rights, and the overriding obligation to secure human dignity. It is certainly a truth that shapes our collective response, in Government and in this Parliament, to critically-important domestic challenges. From the elimination of poverty, ill-health and inequality to the delivery of inclusive, and environmentally-sustainable, economic growth, these universal principles directly inform our work. It is a truth that lies at the heart of how we confront, as a nation and as a society, the prospect of life post-Brexit. And it is a truth that reminds us "if reminder is needed" of the monstrous tragedy we see unfolding in Myanmar. And of the continuing scandal of modern, wealthy nations which fail in their duty to alleviate the suffering of refugees cast up on European shores. Of course, the work of both government and of this Parliament is also shaped by our common responsibility to do more than simply acknowledge big principles. We also have a shared duty to get the details right "to ensure that we achieve the outcomes the people of Scotland have tasked us to deliver. Doing so requires a human rights approach. It demands ways of working that embed dignity and rights and equality in everything we do. It recognises that such action is more than just a policy choice or the consequence of the most recent manifesto commitment. Giving practical effect to equality and human rights - and securing human dignity for all - is a core function of Government. As it is also of this Parliament. That is why the Programme for Government we set out on 5 September provides an ambitious roadmap for long-term progressive change. It builds on the actions we have already taken to make human rights real in Scotland, and to enable all members of our society to live with dignity and equality. We have made clear that the Scottish Government will maintain our resolute defence of human rights and equality in the face of threats posed by the UK Government. We will work to prevent existing and future human rights protections "including the Charter of Fundamental Rights" being eroded by the impact of Brexit. We are determined also to take every opportunity to give further and better effect to economic, social and cultural rights for all of Scotland. These are rights which include fair work, an adequate standard of living, decent housing, health, social security and access to education. That is why we are establishing an expert advisory group to make recommendations on how Scotland can continue to lead by example. Its work will be founded in participation, and a deliberative approach "one that reaches beyond those who already have easy access to power and influence. Human rights belong to everyone in our society and it is essential that voices from all walks of life and from every corner of our nation are heard. We are also continuing to put the rights of children and young people at the heart of our Programme for Government "including by conducting a comprehensive audit of ways to further embed the UN Convention on the Rights of the Child in domestic law. Scotland has a strong track record in empowering and involving children and young people, so that their voices too can be clearly heard. This Government has been explicit in recognising social security as a human right. That commitment remains at the heart of our programme. We are determined too that Scotland should be a place where disabled people can live with real opportunity to realise their potential, free from the barriers that hold them back. Later this year we will publish an action plan which will drive positive change for minority ethnic communities in Scotland. We will also publish our delivery plan for Equally Safe - detailing our programme to tackle violence against women and girls. And we have set out an ambitious programme of work to take forward the recommendations of the Independent Advisory Group on Hate Crime, Prejudice and Community Cohesion. Over the last two-years the UK has been examined by UN committees on its record under 5 of the 7 core international human rights treaties. Indeed, such are the concerns that the UK has been ordered to report back

on progress next year. Members of the UN Human Rights Council have made clear their own concerns that the legal protections in place in the UK to safeguard human rights are increasingly at risk. Those are concerns and criticisms which this Government shares and which we remain committed to addressing, not just for Scotland but, where we can, by intervening constructively at the UK level. This month marks twenty years since the referendum vote for a Scottish Parliament. That vote was a watershed moment for Scotland and for its democracy. In the twenty years since, those principles and ambitions have remained firm and have informed all that we do. But I am proud of the commitment this Government and Parliament has made to equality, to human rights and to the fundamental importance of human dignity. And I am proud of the stance that has been taken to protect those rights. We can be confident that the self-evident truth articulated by the Universal Declaration will ultimately triumph if we work diligently and in partnership to give it full and meaningful effect. I move the motion in my name.

Chapter 9 : Land debate in South Africa is about dignity and equality - not the constitution

Dignity, given its multiple definitions, may be applied in various ways in equality jurisprudence. It may be brought up simply to underscore the importance of equality and nondiscrimination, without itself providing standards for decision making. Judges also may invoke dignity to identify the groups or classifications that equality.

Advanced Search Abstract This paper examines the link made on occasion between the concept of dignity and substantive equality; it is further noted that dignity can have very different meanings in different contexts. While the notion of dignity does not often play a substantive role in the resolution of decisions, sometimes the underlying understanding of dignity does matter. However, in all cases, judges should avoid the temptation to rely on unarticulated value judgments or subjective notions of dignity. When judges make reference to dignity, they should articulate the values underpinning their conception of it. Empty vessels and unassailable concepts

Equality is a difficult concept. The emptiness of formal equality makes it tempting to flesh out equality with more substantive concepts. Sandra Fredman identifies specific values that can be used to develop a conception of equality: This is especially so in Canada and South Africa countries often suggested as models for equality law , 11 though the concept of dignity has also attracted attention from commentators elsewhere; 12 and recent European directives on equality refer to the aim of protecting dignity. Despite this ambiguity, courts have resorted extensively to the concept. Whether stated as a right or a principle, dignity may be invoked to justify limiting other rights. Canada and South Africa have detailed constitutional guarantees of equality. Section 15 of the Canadian Charter of Rights and Freedoms reads: Under section 1 of the Charter, a measure that violates section 15 may still be saved if it satisfies a proportionality test: Everyone is equal before the law and has the right to equal protection and benefit of the law. Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken. The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth. No person may unfairly discriminate directly or indirectly against anyone on one or more grounds in terms of subsection 2. National legislation must be enacted to prevent or prohibit unfair discrimination. Discrimination on one or more of the grounds listed in subsection 2 is unfair unless it is established that the discrimination is fair. As in Canada, in principle, a measure that violates this section can be justified if it satisfies a proportionality test. The argument is made that, in many instances, the concept does not serve a useful legal purpose and, moreover, that there are dangers in introducing the ambiguous concept of dignity into equality analysis. The meaning of dignity That dignity is difficult to define is a commonplace. This produced some very odd decisions, including a first-instance ruling to the effect that excluding women from juries was nondiscriminatory because jury service was not an essential human attribute. Deryck Beylveld and Roger Brownsword give the example of German and French cases where courts prohibited peep shows and the carnival practice of dwarf throwing, relying on the notion of dignity; 44 more recently, a French court invoked dignity to ban a controversial Benetton ad. Dignity as autonomy has often been criticized as being too individualistic. Such a view, rather than questioning the legitimacy of social protection measures, regards them as intimately linked to dignity. In the landmark case of *Law v. Justice Frank Iacobucci* discussed the idea of dignity in the context of section 15 of the Canadian Charter, elaborating a three-stage test for determining whether a measure was discriminatory: Did the case involve a formal distinction or a differential impact? Was it based on one of the grounds mentioned in section 15 of the Charter or an analogous ground? If so, did it violate the purpose of the Charter? Human dignity means that an individual or group feels self-respect and self-worth. It is concerned with physical and psychological integrity and empowerment. Human dignity is harmed by unfair treatment premised upon personal traits or circumstances which do not relate to individual needs, capacities, or merits. It is enhanced by laws which are sensitive to the needs, capacities, and merits of different individuals, taking into account the context underlying their differences. Human dignity is harmed when individuals and groups are marginalized,

ignored, or devalued, and is enhanced when laws recognize the full place of all individuals and groups within Canadian society. Human dignity within the meaning of the equality guarantee does not relate to the status or position of an individual in society per se, but rather concerns the manner in which a person legitimately feels when confronted with a particular law. Does the law treat him or her unfairly, taking into account all of the circumstances regarding the individuals affected and excluded by the law? Justice Iacobucci combines different conceptions of dignity. The concept of dignity in equality law Dignity, given its multiple definitions, may be applied in various ways in equality jurisprudence. Judges also may invoke dignity to identify the groups or classifications that equality jurisprudence should concern itself with; alternatively, it may be used as a threshold criterion for determining when a distinction becomes unacceptable. In cases where a nonsymbolic use of dignity is suggested, the concept often adds little to the legal analysis, which is based on more concrete notions, such as the need to combat particular forms of prejudice and stereotypes. Canadian and South African judges have referred to the concept of dignity to expand the scope of their equality clauses. Canada, the Supreme Court held that a ground is analogous if it is used in a way to impair human dignity. The first inquiry is whether the distinction is made on the basis of an enumerated ground or a ground analogous to it. The answer to this question will be found in considering the general purpose of s. In deciding whether a specific distinction on an unenumerated ground is improper, one of the factors that the Court considers is whether the measure impinges on the dignity of the persons affected. These concepts can be explained without referring to dignity. One of the main uses of dignity in comparative constitutional equality jurisprudence is as a threshold requirement, enabling courts to separate distinctions that are constitutionally improper from those that are not. The third inquiry—“compliance with the purpose of the Charter”—embodies the idea of dignity. Under the third stage of the test, the Court found there was no violation of human dignity because young people without disability or dependent children had a better chance of obtaining employment. Neither was there an improper stereotyping of people under the age of thirty but, rather, the distinction was related to the reality that a young person is better situated to replace the lost benefits with earned income. These Canadian and South African examples illustrate some ways in which judges typically refer to dignity at different stages in equality cases. Although dignity does not seem to do any substantive work in these examples, this is not so in all cases. As the next section illustrates, when judges rely on dignity to provide the rational underpinnings for a decision, the inherent ambiguities and resulting dangers of the concept become manifest. The dangers of dignity in an equality jurisprudence Judges decide issues of equality based on specific articulations of ideas regarding stereotyping, personal characteristics, and the like. Several Canadian and South African cases are illustrative. In some situations, it is the relationship between dignity and autonomy that is problematic. In the Canadian case of *Nova Scotia v. Walsh*, 88 the distinction was a statutory presumption that matrimonial property should be divided equally between the spouses at the end of marriage; this presumption did not apply to unmarried cohabiting couples. In South Africa, in *Robinson v. In particular*, as Justice Sachs wrote, in the South African case, structures of gender discrimination that disadvantage women are not unique to marriage but also affect unmarried cohabiting couples. The Canadian case of *Gosselin* is instructive. Persons under thirty could increase their welfare payments by participating in one of three government-designated work-activity or education programs. The aim of this legislative distinction was to encourage the young and unemployed to acquire education or training to better equip them to rejoin the workforce. The claimant sought to compel the provincial government to compensate fully people under thirty. A divided Supreme Court of Canada rejected this claim, focusing on whether the distinction violated the purposes of the Charter. The dissenting judges dealt very differently with the third principle of the Law test. Both the majority and dissenters said they were addressing the same question, that is, whether a reasonable young person under the age of thirty would experience the same impairment of dignity as an older citizen when denied subsistence benefits. Canadian *Foundation for Children, Youth and the Law v. The Supreme Court* upheld this section of the code as a basis for a defense against the charge of assault under the third stage of the Law test; at the same time, it narrowed the scope of the statute. Consequently, there was nothing arbitrary or demeaning in the nature or enforcement of section I am satisfied that a reasonable person acting on behalf of a child, apprised of the harms of criminalization that s. Children often feel a sense of disempowerment and vulnerability; this reality must be

considered when assessing the impact of s. Section 43 is not arbitrarily demeaning. It does not discriminate. Rather, it is firmly grounded in the actual needs and circumstances of children. If it is more than that, it may highlight the flaws in an approach that stresses autonomy, particularly when dealing with cases involving children, who are not treated, ordinarily, as autonomous agents. The majority also considered the subjective element of the dignity test. While this is always an indeterminate approach, the majority explicitly emphasized the viewpoint of the guardian rather than that of the child. There were dissenting opinions both as to the reasoning and the result. Justices William Binnie and Marie Deschamps found that there was a violation of the equality clause: In *President of the Republic of South Africa v. Hugo*, one of the earliest decisions of the South African Constitutional Court, the Court had to assess the validity of a presidential decision to pardon mothers of young children who were in prison but not fathers. The president based this on the special role of mothers in looking after children though he may have been influenced, as well, by the specter of releasing large numbers of prisoners into a society worried about crime rates. It said that the jailed fathers had had their liberty curtailed through conviction and not by the presidential act. While they were disadvantaged in being denied a benefit offered to incarcerated mothers, they could still apply for remission. Therefore, according to the majority, the measure had not impaired the dignity of the jailed fathers. Relying on a gender-based generalization was itself an affront to dignity. This may reinforce stereotypes and prejudices rather than combat them. Conclusion The temptation to link dignity with equality is strong. In fact, some of the inherent difficulties in the application of the concept of equality may lead some writers to invoke dignity; still, the concept of dignity itself has similar problems. In many cases discussed here, the reference to dignity is redundant; the real work has been done by other ideas, such as the need to combat prejudice and stereotypes and to recognize the needs of members of disadvantaged groups. In some cases, dignity has played a valid role in the analysis; nonetheless, the malleability of the concept makes it controversial. Given that dignity often seems redundant or controversial, should we then jettison the concept? It may be too late. The concept may already be so embedded in case law and legislation that it must be addressed. Constitutional texts and jurisprudence are replete with concepts as vague as they are inspiring.