

# The History of Human Dignity and its Brutal Disregard

## Comments on Human Dignity in the History of Ideas and the Experience of Disregard for Human Dignity in Germany

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There are essentially two different approaches that can be taken in examining the history of human dignity in the European or German context. Firstly, it is possible to briefly trace the “genesis of human dignity in Europe” in the context of the history of ideas. Secondly, reference can be made to historical experiences (of suffering) in the European context – experiences which have led Europeans to develop the concept of a universal and inalienable human dignity with the aim of preventing the recurrence of such experiences in the future. This concept encompasses the codification of human dignity in the form of human rights enshrined in various constitutions and internationally binding documents. The purpose of this article is to combine both approaches. The first section deals with the way in which the concept of human dignity has developed within the history of ideas in Europe. The second section investigates the consequences this had on 20th century German (and European) history, when the existence of a universal and inalienable human dignity was denied in Germany. Exactly 75 years ago it was precisely this denial which resulted initially in the death of over 70,000 people (under a Nazi murder operation called T4).<sup>151</sup>

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<sup>151</sup> The brutal disregard for human dignity on the part of the Nazi terror regime led to T4, the first “industrially planned and implemented murder operation”, which involved the killing of 70,000 people with disabilities, mental illnesses and other abnormalities. Later, the experience gained from this operation fed into a further mass killing programme, planned with the same meticulous care and carried out with the same efficient division of labour: the murder of 6 million Jews, now known as the Shoah.

### The notion of human dignity in the European context

The concept of a uniquely human dignity has its roots in the cultures of antiquity. The first tentative beginnings can be found in the sacred texts of Egyptian and Semitic cultures. The idea was later taken up in Hellenistic and Roman antiquity, when the concept of a uniquely human dignity was linked to man's ability to reason (e.g. in the works of Plato, Cicero, Seneca and Epictetus). In the Roman political and social order, *dignitas* was deemed the ideal attribute of a person holding political office, of whom special achievements and virtues were expected. This was a throwback to an idea which had formed in the Hellenistic Stoa where a person was considered dignified if he had mastered his passions.

Starting from its early roots in antiquity, the concept of human dignity in European history can be traced through the Middle Ages right up to the present day. The notion that man was created in the image of God is first found in the Early Church. Later, during the Renaissance and in humanism, the emphasis shifted towards the idea that man has free will and can therefore make his own decisions on how he might acquire a unique dignity. The concept that man is endowed with a unique dignity can be found as far back as the Renaissance writings of Pico della Mirandola, who asserted that man can fashion his own life *ad libitum*. This form of reasoning was later continued by Kant, Hegel, Fichte and others. Immanuel Kant, Germany's protagonist of the Enlightenment, was one of the main figures in the history of philosophy. He came to the conclusion that man's gift of reason enables him, in principle, to undertake independent moral judgements (and actions) on his own responsibility and that he can do so without being dependent on any external instance. This notion of an underlying free will is also reflected in Kant's concept of moral autonomy, and it is precisely this understanding of autonomy that has influenced the notion of dignity in European history over the centuries.<sup>152</sup>

In Europe the concept of human dignity is traditionally rooted in the idea of a natural law and in Christian anthropology.<sup>153</sup> At the same

<sup>152</sup> Cf. Bogner, Daniel, *Christlich glauben, menschlich leben: Menschenrechte als Herausforderung für das Christentum* (missio Studienreihe Menschenrechte 42), Aachen 2011, 8.

<sup>153</sup> Cf. Marx, Reinhard, "Barmherzigkeit und Gerechtigkeit: Grundprinzipien des christlichen Glaubens", in: *Anzeiger für die Seelsorge*, No. 125 (2016) 1, 5–9, here 6.

time, the idea of a natural law is closely associated with anthropological axioms. Thus, natural law always includes an interpretation of man's natural human condition.<sup>154</sup> Nature is not simply the things we encounter around us. Bruno Schüller describes the *lex naturae* as "the embodiment of those moral commands which, in their validity and content, have their origins in man's human condition"<sup>155</sup>. Under natural law everything that can be interpreted as an indispensable part of human existence is deemed natural.

In his inaugural encyclical, *Redemptor Hominis*, Pope John Paul II says, for instance, that man thinks "from the point of view of natural law, that is to say from the 'purely human' position, on the basis of the premises given by man's own experience, his reason and his sense of human dignity"<sup>156</sup>. In Christian anthropology the focus is very much on man in the image of God, as this underlines man's uniqueness and his specific dignity. The roots of Christian anthropology lie in the biblical account of creation: "So God created man in the image of himself, in the image of God he created him, male and female he created them" (Genesis 1:27).<sup>157</sup> Using Christian anthropology as his starting point – i.e. man in the image of God – Robert Spaemann concludes that the concept of human dignity can only find justification in a philosophy of the absolute.<sup>158</sup>

Historically, a variety of teachings on natural law have arisen from the notion of a natural law substantiating an ethical standard which predates any de facto legal order and refers, in doing so, to

<sup>154</sup> Cf. Goertz Stephan, "Naturrecht und Menschenrecht", in: *Herder Korrespondenz*, No. 68 (2014) 10, 509–514, here 510.

<sup>155</sup> Schüller, Bruno, "Wieweit kann die Moralthologie das Naturrecht entbehren?", in: *Lebendiges Zeugnis*, No. 1–2 (1965), 41–65, here 42.

<sup>156</sup> John Paul II, *Redemptor Hominis*, 17: [http://w2.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf\\_jpii\\_enc\\_04031979\\_redemptor-hominis.html](http://w2.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jpii_enc_04031979_redemptor-hominis.html) (03.03.2016).

<sup>157</sup> Cf. Westermann, Claus, "Das Alte Testament und die Menschenrechte", in: Baur, Jörg (ed.), *Zum Thema Menschenrechte: Theologische Versuche und Entwürfe*, Stuttgart 1977, 5–18. The anthropological concept of man being created in the image of God, on which his dignity and especially human equality rests, is taken up in the New Testament. This notion of human equality, which is independent of ethnicity, social status and gender (Galatians 3:28), is emphasised in the basic principle of loving one's neighbour (Mark 12:28-34, Romans 13:8-10 and Galatians 5:14) as well as in the pastoral letters, which were formulated to encourage openness within the Christian churches. As a result, Christian ethics imply a universalism which also covers the universalism of an inalienable human dignity.

<sup>158</sup> Spaemann, Robert, "Über den Begriff der Menschenwürde", in: *ibid.*, Grenzen: *Zur ethischen Dimension des Handelns*, Stuttgart 2002, 107f., here 122.

human existence. This is because the understanding of what forms part of the immutable essence of humanity – and what does not – has gradually undergone a transformation. There is an abstract natural law in the singular, and there are various historical natural laws in the plural. The Catholic understanding of natural law has developed towards one that centres around man's essentially human nature, which transcends culture but expresses itself in specific natural purposes.

The concept of human dignity which finally asserted itself in Europe by the modern age at the latest rests on four distinct properties. Firstly, all individuals have human dignity regardless of their gender, skin colour, affiliation at birth, nationality, state of health, etc. This dignity therefore relates to characteristics that are inherent in human existence.<sup>159</sup> On the other hand, there are also qualities by which humans choose to distinguish themselves from one another, such as social position, origin, membership of an estate, capability, current disposition, gender and stages of development – characteristics which are defined as secondary elements.<sup>160</sup> It follows that “human dignity” implies the same dignity for everyone and is not about any personal qualities, which thus excludes any form of particularism.<sup>161</sup> Furthermore, all humans have this dignity as an individual trait which does not become theirs through any other quality or affiliation.<sup>162</sup> Unlike duties performed in accordance with ethical traditions in earlier periods, modern natural law does not focus primarily on rights and duties or on the social order and

<sup>159</sup> The description of human dignity as “inherent” implies that it is not “innate”, as some have claimed. According to the German Embryo Protection Act, human life begins with the fusion of ovum and sperm (and is protected from that moment onwards) and so human dignity also covers pre-natal life. Cf. Roos, Lothar, *Der neue Streit um den Menschen* (Kirche und Gesellschaft 305), Cologne 2003, 6.

<sup>160</sup> Cf. Böhr, Christoph, *Der Maßstab der Menschenwürde: Christlicher Glaube, ethischer Anspruch und politisches Handeln* (Kirche und Gesellschaft 301), Cologne 2003, 10.

<sup>161</sup> Cf. Schuster, Josef, “Die umstrittene Universalität der Menschenrechte”, in: *Stimmen der Zeit*, No. 139 (2014) 12, 795–805, here 803.

<sup>162</sup> In addition to this absolute or inherent understanding of human dignity there is the attributive concept of human dignity, which rests on the mutual, inter-personal acknowledgement of specific dignity. Hence human dignity is not seen as inherent in a person, but it is based on mutual attribution and recognition. This approach is taken, for instance, by Jürgen Habermas, who sees the foundation of human dignity as being located “solely in reciprocally recognised interpersonal relations and in mutual egalitarian treatment” (Habermas, Jürgen, *Die Zukunft der menschlichen Natur: Auf dem Weg zu einer liberalen Eugenik?*, Frankfurt am Main 2001, 67).

manner in which a person leads his life. Rather, it looks at the entire issue more from an individual perspective. The individual is regarded from a pre-social viewpoint and defined as a person endowed with “natural rights”. He is not primarily defined by the rights he enjoys and the duties he has towards the community, but is regarded as having certain entitlements with respect to society.<sup>163</sup> Moreover, human dignity is considered to be an innate, pre-state property which the state can only recognise but cannot grant. Finally, this inalienable human dignity forms the foundation of human rights which, because of their origin and character, impose certain duties on the state. As Hans Maier puts it, they demand “that the state respect a sphere of personal freedom which precedes it and which is pre-specified. The state must not be permitted to do whatever it pleases, and it must not interfere with substantial spheres of individual freedom or, if it does so, then only under conditions that have been strictly defined by law. In other words, a citizen can assert a claim of forbearance in respect of the state on the grounds of the ‘older’ natural law of personal freedom and self-reliance.”<sup>164</sup>

Historically, the political revolutions of the 18th century were the great moments of natural law in history – and thus also of the concept of an inalienable human dignity. However, research into the history of philosophy has revealed that this period is not regarded as the age in which some kind of natural law was recognised. The major achievement of modern-day natural law is its discovery of man as a being endowed with freedom. The determination of human dignity by dint of man's capacity for freedom can draw on the body of thought that was present in late antiquity and the Middle Ages.<sup>165</sup> However, it is only in the modern age that the innately equal freedom enjoyed by all individuals has been transformed into a political demand and gradually been given positive status in law. Man's capacity for self-determination is recognised as a foundation for human dignity, and this special moral status has been translated into human rights demands. Moreover, with natural law becoming positive law in the form of human rights there has also

<sup>163</sup> Cf. Maier, Hans, *Menschenrechte: Eine Einführung in ihr Verständnis*, Kevelaer 2015, 18.

<sup>164</sup> *Ibid.*, 11.

<sup>165</sup> Cf. Kobusch, Theo, *Die Entdeckung der Person: Metaphysik der Freiheit und modernes Menschenbild*, Darmstadt 21997; *ibid.*, *Christliche Philosophie: Die Entdeckung der Subjektivität*, Darmstadt 2006.

been a change in the relationship between natural law and human rights. The stimulus triggered by the original idea of a natural law has been transferred to human rights. In fact, it is now human rights that are accepted as a yardstick for any critique of political and social conditions.

General recognition of a universal, individual, pre-state and inalienable human dignity found expression in state constitutions and declarations that expressly referred to human dignity and consequently derived and codified human rights. The fiery moral appeal that was originally formulated, particularly in the French Declaration, was now translated into the sober language of state legislation. Human rights became basic (or fundamental, civil, constitutional) rights.<sup>166</sup> Ultimately, it was in the period between the American Revolution and the disaster of World War I that human and civil rights found their way into the constitutions of the 19th and 20th centuries. In the wake of this codification human rights were elevated from the status of moral postulates to the level of redeemable safeguards which were firmly anchored in numerous constitutions as fundamental rights. Thus the legal concept of personhood, whereby a person *per se* has a *status moralis*, was first codified in modern civil law in the early 19th century. Take, for instance, the 1811 Austrian Code of Law: “Every human being has innate, rationally comprehensible rights and must therefore be regarded as a person.” Yet this understanding of human rights has repeatedly been disputed. As early as the 19th century, the idea of human rights was harshly criticised as an expression of bourgeois selfishness and individualism. Karl Marx, for instance, wrote: “None of the so-called human rights, therefore, goes beyond the egotistical man, the man who, in bourgeois society, is separated from the community and withdrawn into himself, his private interest and his private will. Man is not conceived here as a member of his species; rather, the life of the species, that is, society, is conceived as a framework imposed upon individuals, a limitation of their original independence.”<sup>167</sup>

<sup>166</sup> Cf. Oestreich, Gerhard, “Die Entwicklung der Menschenrechte und Grundfreiheiten: Eine historische Einführung”, in: Bettermann/Neumann/Nipperdey (eds.), *Die Grundrechte I/1*, Berlin 1966, 1–123.

<sup>167</sup> Marx, Karl, *A World without Jews* (1843), Philosophical Library, New York 1959 – <http://www.resist.com/Onlinebooks/Marx-WorldWithoutJews.pdf> (03.08.2016), 27f.

Despite these and numerous other queries from a variety of ideological backgrounds, the recognition of human dignity and human rights has been an ongoing process which continues up to the present day. The interdependence between human rights and human dignity, which blend to form something universal, inalienable and inviolable, can be found in numerous extensively codified documents.

### Experience of the disregard for human dignity in the European context

Human dignity features in the very first article of the Basic Law, or Constitution, of the Federal Republic of Germany. Its inclusion was primarily a response to the suffering caused in Germany by the murder operations of the Nazi terror regime, which had their origins in a quasi-religious racial fanaticism. We will return to this subject in the next section. The method applied there entails not so much approaching things from a history of ideas standpoint, but rather treating the recognition of human dignity as a response to specific experiences of suffering. Consequently, the discussion of human dignity is removed from context-related developments in the history of ideas and embedded instead in universal, cross-contextual human experiences (of suffering). This, in turn, results in a call for recognition of a universal and inalienable human dignity in order to avert such suffering in the future.

The Constitution of the Federal Republic of Germany came into force on 23 May 1949, shortly after it had been adopted by Germany’s Parliamentary Council. Known as the Basic Law, the Constitution specifies the essential decisions on values and systems to be taken by the state. After the introductory preamble, the Constitution initially deals with the basic rights of every individual. Article 1 thus contains the paradigmatic formula: “Human dignity shall be inviolable. To respect and protect it shall be the duty of all state authority.”<sup>168</sup> In the next paragraph, proceeding from this first reference to human dignity, the Constitution draws attention to “inviolable and inalienable human rights as the basis of every community, of peace and of justice in the world”. The question of human dignity, in particular, had been the subject of emotional debates. During the negotiations held by

<sup>168</sup> Article 1 of the German Constitution: [https://www.bundestag.de/blob/284870/ce0d03414872b427e57fccb703634dcd/basic\\_law-data.pdf](https://www.bundestag.de/blob/284870/ce0d03414872b427e57fccb703634dcd/basic_law-data.pdf) (03.08.2016).

the consultative provincial assembly of Württemberg-Hohenzollern, Carlo Schmid, for instance, voiced criticism of the attitude which considered basic rights to be concessions granted by the state. He argued in favour of basic rights being construed as pre-state, natural and human rights: “One of the gravest errors among the many which the 19th century planted in our consciousness [...] is that everything a person possesses has been given to him by the state. [...] We must reverse that error by returning to the fundamental, long-established view that man predates the state; that dignity, freedom and whatever may arise from them in detail are attributes which adhere to man by virtue of his humanity; and that a human being does not require the state to bestow those attributes upon him. [...] Man does not exist for the sake of the state, rather the state exists in order to serve man and not to rule over man for its own sake.”<sup>169</sup> After discussing the legal position on this issue, the members of the Parliamentary Council resolved on 21 September 1948 to treat the basic rights formulated in Articles 1 to 19 as pre-constitutional rights and incorporated them as such into the German Constitution.<sup>170</sup>

Ultimately, however, the German Constitution proclaimed in 1949 professed its commitment to an inalienable human dignity that had been enshrined the year previously in the Preamble to the Universal Declaration of Human Rights of 10 December 1948<sup>171</sup>: “Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind [...], the General Assembly proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations [...].”<sup>172</sup> In this passage, human rights are related to the foundation on which they rest and from

<sup>169</sup> Negotiations of the consultative provincial assembly for Württemberg-Hohenzollern, second session on 2 December 1946, 7.

<sup>170</sup> Cf. Wetz, Franz Josef, *Illusion Menschenwürde: Aufstieg und Fall eines Grundwertes*, Stuttgart 2005.

<sup>171</sup> When the United Nations adopted the Universal Declaration of Human Rights in 1948, the countries that abstained included the Soviet Union, the Communist countries, Saudi Arabia and South Africa. Their criticism was that there was a lack of balance in the UN Declaration between the interests of the community and the interests of the individual.

<sup>172</sup> Preamble of the Declaration of Human Rights, 10. December 1948, <http://www.un.org/en/universal-declaration-human-rights/> (03.08.2016).

which they derive their authority.<sup>173</sup> The statement that “All human beings are born free and equal in dignity and rights” is not primarily a reference to an empirical biological fact, “but to human existence as the purview of human rights, that is, to a normative understanding of man”<sup>174</sup>. Human dignity, therefore, is the very foundation on which human rights rest. To put it in a nutshell: “Without human dignity there would be no human rights.”<sup>175</sup>

In liberal constitutional states, human dignity has become the focal point for all other areas of legislation, such as constitutional and criminal law. The fact that the German Constitution makes specific mention of inalienable human dignity in its very first article is a result of the devastating and painful experiences Germany underwent in the period before 1945, when government and society did not recognise or respect human dignity and people with undesirable characteristics became the helpless victims of murders perpetrated by the state and by society. Whereas the systematic murdering of Jews in the Holocaust has left an indelible mark on the national and international memory, public awareness of the operation in which 70,273 people with disabilities, mental illnesses or socially undesirable qualities were murdered is much less prevalent. Known as *Aktion T4*, this operation was the first to negate the human dignity of large sections of the population and represented the first instance of Nazi mass murder. It went hand in hand with a “moral dam burst”, a point in time when individual human dignity was subordinated to ideological principles with devastating consequences.

Since this denial of human dignity and the resulting moral collapse took place exactly 75 years ago this year, it is only right and proper that it should be dealt with at this point, as we are examining the history of human dignity in our own (German and European) context, in which the violation of human dignity has been a recurrent theme. Incidentally, the overview which follows also reveals the potential for discrimination inherent in a positive definition of human dignity, if human dignity rests on specific characteristics and abilities that are inherent in mankind.<sup>176</sup>

<sup>173</sup> Cf. Bogner, Daniel, op. cit., 6.

<sup>174</sup> Schuster, Josef, op. cit., 796.

<sup>175</sup> Bogner, Daniel, op. cit., 6.

<sup>176</sup> Cf. Hilpert, Konrad, entry on “Menschenwürde” (human dignity), in: *Lexikon für Theologie und Kirche*, No. 7, Freiburg 1998, 134.

### The *Aktion T4* murder operation

*Aktion T4* was triggered by a precedent that came to be known as the Knauer Case.<sup>177</sup> The parents of a child suffering from severe mental and physical disability asked Hitler to grant it a “merciful death”, i.e. euthanasia. Hitler agreed and authorised the head of the Führer’s Chancellery, Philipp Buhler (1899-1945), and an assistant doctor, Karl Brandt<sup>178</sup>, to give their consent to killings in similar cases.<sup>179</sup> This opened the gates for a so-called “children’s euthanasia” programme which had claimed at least 5,000 victims by the end of the war. On 18 August 1939 the Reich Ministry of the Interior issued a decree making it mandatory to report newly born babies with deformities<sup>180</sup> (children with birth defects, a cleft head or spine, paralysis, “imbecility”, “mongolism”, microcephalus or hydro-

<sup>177</sup> Cf. also the critical notes in Schmuhl, Hans-Walter, “Die ‘Genesis’ der Euthanasie: Interpretationsansätze”, in: Rotzoll, Maike/Hohendorf, Gerrit/Fuchs, Petra, *Die nationalsozialistische ‘Euthanasie’-Aktion T4 und ihre Opfer: Von den historischen Bedingungen bis zu den Konsequenzen für die Ethik in der Gegenwart*, Paderborn/Munich/Vienna/Zurich 2010, 66–73, here 72.

<sup>178</sup> Later, at the Nuremberg Trials, Karl Brandt gave the following testimony: “I myself know of a petition that was presented to the Führer via his adjutancy in 1939. The father of a deformed child had turned to the Führer, asking that the life of this child – or being – should be terminated. Hitler then instructed me to attend to the matter and go to Leipzig straightaway – as that was where they lived – so that I could ascertain the facts on the spot. The child had been born blind, appeared imbecilic and also had one leg and one part of an arm missing. [...] He [Hitler] instructed me to talk to the doctors who were looking after this child in order to establish whether the details given by the father were correct. If they were, I was to tell the doctors in his name that they could perform euthanasia. It was important that this should be communicated to the parents in such a way that they would not feel burdened by this euthanasia at some later date. In other words, the parents were not to be given the impression that they themselves had caused the child’s death. I was further instructed to say that if, through their actions, the doctors concerned should end up facing legal proceedings, the court case would be squashed on Hitler’s instructions. Furthermore, Martin Bormann was instructed to notify Gürtner, Germany’s Minister of Justice at the time, about this case in Leipzig. [...] The doctors took the view that there was no real justification for sustaining the life of such a child. They pointed out that it was quite natural in a maternity unit for the doctors themselves to perform euthanasia in such a case without any further discussion of the matter, although no precise reference was given.” (Quoted from: Schmidt, Ulf, “Kriegsausbruch und ‘Euthanasie’: Neue Forschungsergebnisse zum ‘Knauer Kind’ im Jahre 1939”, in: Frewer, A./Eickhoff, C. (eds.), *‘Euthanasie’ und die aktuelle Sterbehilfe-Debatte: Die historischen Hintergründe medizinischer Ethik*, Frankfurt am Main/New York 2000, 113–129.)

<sup>179</sup> Kaul, Friedrich Karl, *Nazimordaktion T4: Ein Bericht über die erste industriemäßig durchgeführte Mordaktion des Naziregimes*, Berlin 1973, 24f.

<sup>180</sup> Cf. Hohendorf, Gerrit, “Ideengeschichte und Realgeschichte”, in: Fuchs, Petra/Rotzoll, Maike/Müller, Ulrich/Richter, Paul/Hohendorf, Gerrit, “Das Vergessen der Vernichtung ist Teil der Vernichtung selbst”: Lebensgeschichten von Opfern der nationalsozialistischen “Euthanasie”, Göttingen 2007, 36–52, here 40.

cephalus). The instruction was that “in such cases all the means of medical science should be applied to treat children with a view to protecting them from lapsing into permanent infirmity”<sup>181</sup>. The reports, recorded by midwives and doctors, were passed on to the Reich Committee for the Scientific Registration of Serious Hereditary and Genetic Illnesses. The number of newly born children registered in this manner amounted to around 100,000, of whom approximately 20,000 were diagnosed as “positive”. Some 30 “special children’s wards” were set up in existing psychiatric institutions, university clinics and children’s hospitals throughout Germany with a view to killing the children by food deprivation or lethal injections as part of the child euthanasia programme.<sup>182</sup> In the first half of 1940 Paul Nitsche, the head of the Leipzig-Dösen Clinic, devised a special programme known as the Luminal Scheme in connection with experiments being carried out on human beings.<sup>183</sup>

The killing of mentally and physically disabled children triggered an accelerating spiral of death which was fuelled by the Nazis’ racist ideology and eventually paved the way for the genocide of the Shoah or Holocaust.<sup>184</sup> Initially, however, this “children’s euthanasia” developed into the strategically planned killing of sick and socially marginalised individuals as part of the *Aktion T4* murder operation. In July 1939, Hitler met the head of the Reich Chancellery, Hans Heinrich Lammers (1879-1962), the Reich Minister of Public Health, Leonardo Conti (1900-1945), and the Head of the Nazi Party Chancellery, Martin Bormann (1900-1945), to discuss whether the practice of “child euthanasia” might be extended to cover the inmates of psychiatric institutions as part of a campaign to exterminate “worthless life”. Hitler instructed Leonardo Conti to broaden the scheme to include adults.

<sup>181</sup> SächStA, Staatsarchiv Leipzig, HP Dösen No. 195, not paginated.

<sup>182</sup> Cf. Dahl, Matthias, “Die Tötung behinderter Kinder in der Anstalt Am Spiegelgrund 1940 bis 1945”, in: Gabriel, Eberhard/Neugebauer, Wolfgang, *NS-Euthanasie in Wien, Vienna/Cologne/Weimar 2000*, 75–92, here 77.

<sup>183</sup> The compound used in the child euthanasia programme for the targeted killing of sick and disabled children was called Luminal – an anaesthetic drug produced by the Bayer pharmaceutical group, with phenobarbital as the active ingredient. The Luminal Scheme, as it came to be called, involved injecting an overdose of phenobarbital three times a day for a number of days, a measure which was supplemented by systematic undernourishment. As a result, the patient met an inconspicuous death through pneumonia in a short period of time.

<sup>184</sup> Cf. Rieder, Sepp, “NS-Euthanasie in Wien”, in: Gabriel, Eberhard/Neugebauer, Wolfgang, *NS-Euthanasie in Wien, Vienna/Cologne/Weimar 2000*, 13–15, here 14.

However, Buhler claimed this area of responsibility for his own office and so he convened a meeting on 10 August 1939 which was attended by Brandt, Brack, Hefemann, Conti, Linden and a number of selected doctors. In October 1939 Hitler wrote a secret informal letter to Buhler and Brandt authorising them to carry out the euthanasia scheme. In this letter, written in October 1939 and backdated to the beginning of the war on 1 September 1939,<sup>185</sup> Hitler decreed: “Reichsleiter Buhler and Dr. Brandt are hereby charged with the responsibility of extending the authority of specifically named and appointed doctors and of empowering them to perform mercy killings on those who, as far as is humanly possible to tell, are terminally ill – this following a thorough and critical appraisal of their pathological condition.” The fact that such a letter from Hitler was genuinely acknowledged as an authoritative instruction can only be explained in the context of Hitler’s claim to undisputed leadership – a principle which formed an integral part of Nazi ideology and was a crucial component of the Nazi state.<sup>186</sup>

In actual fact, Hitler had already planned “euthanasia” measures before that date. During the Nuremberg Medical Tribunal, Karl Brandt (1904–1984), later one of those chiefly responsible for the systematic killing of patients, stated in evidence that Hitler had mentioned such plans to the Reich’s Chief Medical Officer, Gerhard Wagner, as early as 1935. He had argued then that such a measure<sup>187</sup> was necessary to counteract any negative selection process which might ensue in the event of war, i.e. the death and mutilation of the healthy and the simultaneous survival of the sick.<sup>188</sup> He is also said to have pointed out at the time that he wished to return to the “euthanasia issue” in the event of war, as he believed that “such a problem could be resolved more smoothly and easily in wartime and that under the general conditions of war any open resistance that could be expected from the churches would not play such a major role as might otherwise be the

<sup>185</sup> By backdating the letter Hitler aimed to establish a connection between the war and the murder operation so that it was perceived as a necessary part of the war effort.

<sup>186</sup> Cf. Ganssmüller, Christian, *Die Erbgesundheitspolitik des Dritten Reiches: Planung, Durchführung und Durchsetzung*, Cologne/Vienna 1987, 25.

<sup>187</sup> U.S. Military Tribunal, Official Transcript of the Proceedings in Case 1, United States, Karl Brandt et al., 2482.

<sup>188</sup> Cf. Neugebauer, Wolfgang, “NS-Terrorssystem”, in: Tálos, Emmerich/Hanis, Ernst/Neugebauer, Wolfgang (eds.), *NS-Herrschaft in Österreich 1938–1945*, Vienna 1988, 163–184, here 174.

case.”<sup>189</sup> The “external war” would thus be matched by an “internal war”.<sup>190</sup> In 1940 Hermann Paul Nitsche asked Brack to submit to him Hitler’s original “euthanasia” decree before beginning work on the Luminal Scheme.<sup>191</sup>

The euthanasia programme was officially placed in the hands of Hauptamt II (Main Office II) of the Führer’s Chancellery. From April 1940 onwards it was implemented by a special unit housed in the villa at 4 Tiergartenstrasse in Berlin (hence the name “Aktion T4”).<sup>192</sup> Hauptamt II was headed by Viktor Brack. Questioned at the Nuremberg Trials about the purpose of the programme, he said Hitler had wanted to “eradicate all those kept in madhouses and similar institutions who were no longer of any benefit to the Reich. They were regarded as useless eaters, and Hitler believed that by eliminating them it would be possible to release additional doctors, carers, nurses and other staff as well as hospital beds and other equipment for use by the German armed forces”.<sup>193</sup>

To carry out this systematic killing programme “T4 Headquarters” worked together with several independent institutions. The *Reichsarbeitsgemeinschaft Heil- und Pflegeanstalten* (RAG, Reich Department for Psychiatric Hospitals) handled the registration of victims, the *Gemeinnützige Krankentransport GmbH* (abbreviated

<sup>189</sup> Quoted from Mitscherlich, Alexander/Mielke, Fred (eds.), *Medizin ohne Menschlichkeit: Dokumente des Nürnberger Ärzteprozesses*, Frankfurt 1960, 184.

<sup>190</sup> Cf. Hohendorf, Gerrit, “Ideengeschichte und Realgeschichte”, in: Fuchs, Petra/Rotzoll, Maik/Müller, Ulrich/Richter, Paul/Hohendorf, Gerrit, “Das Vergessen der Vernichtung ist Teil der Vernichtung selbst”: Lebensgeschichten von Opfern der nationalsozialistischen “Euthanasie”, Göttingen 2007, 36–52, here 40. In fact, shortly after the beginning of war, special troops of the SS, known as *Sonderkommando*, executed German and Polish inmates of institutions in mass shootings, particularly in the German provinces of Pomerania and East Prussia and in occupied Poland.

<sup>191</sup> Cf. Fiebrandt, Maria/Markwardt, Hagen, “Die Angeklagten im Dresdner ‘Euthanasie’-Prozess”, in: Kuratorium Gedenkstätte Sonnenstein (ed.), *Durchgangsstation Sonnenstein: Die ehemalige Landesanstalt als Militärobjekt, Auffanglager und Ausbildungsstätte in den Jahren 1939–1954*, 95–129, here 104. Paul Nitsche later referred to the loyalty oath which all civil servants had been obliged to swear from August 1934 onwards and which he took on 12. September 1934: “I swear that I shall be loyal and obedient to the Führer of the German Reich and People, Adolf Hitler, observe the law and conscientiously fulfil my official duties, so help me God.”

<sup>192</sup> It is difficult to reconstruct *Aktion T4* from original T4 Headquarters documents, as it must be assumed that most of them were destroyed towards the end of the war.

<sup>193</sup> Affidavit by Brack on 12. October 1946, quoted from: Bastian, Ärzte, 94. Cf. U.S. Military Tribunal Case 1 Transcript, 7132–7138 (testimony Viktor Brack).

Gekrat, Non-Profit Ambulance Service Ltd) was responsible for transporting them to intermediate accommodation and killing centres, and the *Zentralverrechnungsstelle Heil- und Pflegeanstalten* (ZVSt, Central Clearing House for Psychiatric Institutions) handled the cost accounting with the institutional authorities.<sup>194</sup>

On 9 October 1939 Division IV of the Reich Ministry of the Interior, headed by Leonardo Conti, instructed all psychiatric institutions to complete specially prepared registration forms, listing patients diagnosed with schizophrenia, exogenous epilepsy, encephalitis, imbecility, paralysis, Huntington's disease, senile dementia or any other terminal neurological illness and to specify each person's symptoms and ability to work.<sup>195</sup> The institutions were also required to name patients who had been with them for more than five years and were considered "criminally insane" or who were unable to work in any productive capacity.<sup>196</sup> Registration forms were sent to the various institutions via the interior ministries of the states. The forms were later used as the basis for the Nazi murder operation. Once they had been returned to the Reich Ministry of the Interior (where Secretary of State Leonardo Conti had instructed his assistant, Herbert Linden, to take charge of *Aktion T4*), T4 Headquarters passed them on to the Reich Department for Psychiatric Hospitals, which forwarded them to one of 40 experts. Each expert then had to specify on the forms whether the patients on the list should be killed as part of *Aktion T4*.<sup>197</sup> The experts took very little time over their momentous decisions. Since many of them processed about a hundred forms a day,<sup>198</sup>

<sup>194</sup> In addition, a Gemeinnützige Stiftung für Anstaltspflege (Non-Profit Foundation for Institutional Care) was set up as the official employer of all T4 staff.

<sup>195</sup> The *Aktion T4* registration policy was directly linked to an earlier policy which had arisen in connection with the "Law on the Prevention of Offspring with Hereditary Diseases". Cf. Friedlander, Henry, "Motive, Formen und Konsequenzen der NS-Euthanasie", in: Gabriel, Eberhard/Neugebauer, Wolfgang, op. cit., 48.

<sup>196</sup> Cf. Rauh, Philipp, "Medizinische Selektionskriterien versus ökonomisch-utilitaristische Verwaltungsinteressen: Ergebnisse der Meldebogenauswertung", in: Rotzoll, Maike/Hohendorf, Gerrit/Fuchs, Petra, *Die nationalsozialistische 'Euthanasie'-Aktion T4 und ihre Opfer: Von den historischen Bedingungen bis zu den Konsequenzen für die Ethik in der Gegenwart*, Paderborn 2010, 297–309, here 299.

<sup>197</sup> The forms had black-bordered boxes in which the experts entered either a red plus (for death) or a blue minus (for survival), though in cases of doubt it was also possible to insert a question mark.

<sup>198</sup> Cf. Roick, Christiane, *Heilen, Verwahren, Vernichten: Die Geschichte der sächsischen Landesanstalt Leipzig-Dösen im Dritten Reich*, unpublished doctoral thesis, Leipzig 1997, 10.

they must have decided on the life and death of a patient within the space of just a few minutes. The forms were eventually subjected to a final assessment by one of the two senior experts. Initially the senior experts for *Aktion T4* were Werner Heyde, a psychiatrist from Würzburg, and Herbert Linden. Heyde was replaced by Hermann Paul Nitsche in December 1941.<sup>199</sup> During the Dresden Euthanasia Trial, Nitsche said on hindsight that the essential criterion for killing a person was the incurable nature of their condition. In his view, the only issue under consideration in an analysis of the forms was whether a given patient was incurable and so severely mentally disabled and debilitated that it seemed sensible to put an end to his suffering.

As the psychiatric institutions were not told the reason for the registration of the patients, it can be assumed that some of their directors really believed at first that its purpose was to identify patients fit enough to work. As a result of this misunderstanding some directors may well have exaggerated their patients' conditions to prevent them being removed from the institution, whereas in actual fact they plunged them further into the mire of *Aktion T4*.<sup>200</sup>

Using the duly marked forms, the ambulance service company, Gekrat, then drew up a transferral list which was sent via the Reich Ministry of the Interior to the relevant psychiatric institutions and to Gekrat's regional transport units.

From October 1939, while the relevant victims were being registered, a range of psychiatric institutions were identified that were to be transformed into killing centres. In all, six such euthanasia killing centres were set up<sup>201</sup>: Grafeneck in Gomadingen (Baden-Württemberg)<sup>202</sup>, Brandenburg in Brandenburg an der Havel (Brandenburg State)<sup>203</sup>, Hartheim in Alkoven near Linz (Upper Austria)<sup>204</sup>, Sonnenstein in Pirna (Saxony)<sup>205</sup>, Bernburg in Bernburg an der Saale

<sup>199</sup> Barch (formerly BDC), Akte Heyde, Landesgericht Dresden (Dresden Regional Court), Judgement on Hermann Paul Nitsche, 1 Ks 58/47, 7. July 1947, 3.

<sup>200</sup> Cf. Roick, Christiane, op. cit., 107.

<sup>201</sup> Additional killing centres were established in the Polish territories that had been annexed by Germany. In organisational terms, however, they were not assigned to T4 Headquarters.

<sup>202</sup> Grafeneck was used as a killing centre from January to December 1940.

<sup>203</sup> Brandenburg was used as a killing centre from February to December 1940.

<sup>204</sup> Hartheim was used as a killing centre from May 1940 to December 1944.

<sup>205</sup> Sonnenstein was used as a killing centre from June 1940 to September 1942.



(Saxony-Anhalt)<sup>206</sup> and Hadamar in Hadamar (Hesse). In January 1940 the first “experimental” mass killing using carbon monoxide was carried out in Brandenburg, Quite soon all the relevant institutions had gas chambers and cremation furnaces installed on their premises. Organised mass killings started in Grafeneck at the end of January, in Brandenburg in February, in Hartheim in May, in Pirna-Sonnenstein in June and in Hadamar and Bernburg in 1941.

The transport of the victims by the ambulance service company always involved the use of intermediate locations: psychiatric institutions where the victims were accommodated for a few weeks, primarily in order to conceal their ultimate fate.<sup>207</sup> By the time the victims were deported they were usually in a weakened physical condition. This was because expenditure on care had been reduced so drastically that it was no longer possible to guarantee even a remotely adequate food supply for residents of psychiatric institutions. As a rule, victims were accommodated at two to four intermediate locations before eventually being taken to a killing centre. There they were placed in a hermetically sealed killing chamber, into which was carbon monoxide was released. The corpses of the dead patients were subsequently cremated. Each killing centre was assigned to a registrar’s office where death certificates were issued with falsified causes of death. However, it was standard practice for a registrar’s office to issue and dispatch certificates for victims from a different, more remote killing centre rather than the one that was in their own area. This was to stop relatives from visiting and to conceal the real fate of the victims.

What is so striking about the organisation of *Aktion T4* is its “industrial scale”, described by Hannah Arendt as the “mechanisation of extermination”. The entire programme was characterised by an extensive division of labour. Thus, members of staff were only responsible for a certain area, which gave them the feeling that they were merely a minor “cog in the machine”. Moreover, this division of labour meant that those involved could systematically dissociate themselves from the killings.

Given the harrowing circumstances of the killings, the manner

<sup>206</sup> Bernburg was used as a killing centre from November 1940 to July 1943.

<sup>207</sup> Another reason why intermediate locations were used as temporary residences was to ensure smooth logistical operations whenever the killing centres were “overloaded”.

of their communication by the Nazi propaganda machine appears all the more cynical. The gassing of the patients was filmed as part of a scientific documentary designed to present “euthanasia” as a humane act. The following cynically euphemistic description was used in the commentary accompanying this particular film sequence: “Death comes as a relief to the patient, who passes away without noticing its arrival, free of any pain or struggle. The unfortunate person’s face, distorted and tortured by an incurable mental illness and an inhumane existence, is smoothed by the peace of a gentle death which finally brings relief and deliverance.”<sup>208</sup>

The practice of killing disabled patients was publicly denounced, especially by representatives of the churches<sup>209</sup>, including August von Galen (Bishop of Münster)<sup>210</sup>, Johannes Baptista Sproll (Bishop of Rottenburg) and Friedrich von Bodelschwingh<sup>211</sup>, the founder of the Bodelschwingh Institutions.<sup>212</sup> On 24 August 1941 Hitler sub-

<sup>208</sup> Quoted from: Roth, Karl Heinz, “Ich klage an”, in: Aly, Götz (ed.), *Die Aktion T4 1939–1945*, Berlin 1989, 92.

<sup>209</sup> After the Cardinal of Munich, Faulhaber, lodged a complaint with Gürtner, the Minister of Justice, about *Aktion Gnadentod* (the Mercy Killing Programme) on 6. November 1940, Pope Pius XII announced on 1 December that the killing of mentally or physically disabled people was contrary to divine and natural law. In the same year the German Bishops published a joint pastoral letter on 6. July stating that it was unacceptable to kill innocent people except in war or self-defence.

<sup>210</sup> On 26. July 1941 the Cardinal of Münster, Clemens August Graf von Galen, complained to the Westphalian Provincial Administration about the transfer of patients from Westphalian psychiatric institutions. Two days later he took the case to the Münster Regional Court and the Münster Police Headquarters. Then, on 3. August, von Galen preached a sermon in which he provided information about the transport of patients and their subsequent murder.

<sup>211</sup> The example set by Bodelschwingh, in particular, shows how successful intervention could ultimately be. When Bodelschwingh, the head of a major psychiatric institution (Bethel), told Chief Medical Officer Conti on 5 July that he knew about the background to the registration of patients, he was referred to assistant secretary Herbert Linden in the Nazi Ministry of the Interior. Bodelschwingh told Linden on 17. July that Bethel would not complete the relevant forms. As a result, Bethel received a visit on 26. July from a T4 delegation from Berlin which included Viktor Brack and Herbert Linden. The delegation insisted that the doctors should cooperate with T4 Headquarters, announcing that a medical commission would arrive in January 1941 to fill in the forms. However, it was not until August 1941 that the commission turned up to complete the questionnaires. By then *Aktion T4* had already been discontinued (August 1941) and so the patients could not be transferred from Bethel. Cf. Strohm, Theodor, “Die Haltung der Kirchen zu den NS-‘Euthanasie’-Verbrechen”, in: Rotzoll, Maike/Hohendorf, Gerit/Fuchs, Petra, *Die nationalsozialistische ‘Euthanasie’-Aktion T4 und ihre Opfer: Von den historischen Bedingungen bis zu den Konsequenzen für die Ethik in der Gegenwart*, Paderborn/Munich/Vienna/Zurich 2010, 125–133, here 128.

<sup>212</sup> It is worthy of note that “euthanasia” was publicly denounced by the two Catholic Bishops in whose regions the population had spoken out vehemently against the killing of patients. (The same must be said of Theophil Wurm, Bishop of the Württemberg Protestant Church, in

sequently decreed that the euthanasia programme he had ordered should be discontinued. By that time 70,273 people had been killed as a consequence of *Aktion T4*.<sup>213</sup> This put an end to the meticulously planned and implemented murder of defenceless patients pursued under *Aktion T4*. Yet T4 Headquarters continued to register psychiatric patients up to 1945 and even tried to expand its remit to include workhouses, care homes and nursing homes, since it anticipated a potential resumption of the murder operation at a later stage.

### Conclusion

The fact that Article 1 of the German Constitution refers to a human dignity that is universal and inalienable is an expression not only of a (European or contextual) development in the history of ideas, but also – and above all – a response to the suffering that goes hand in hand with the denial of human dignity. It shows that a refusal to accord inalienable human dignity to the individual opens the floodgates to immeasurable cruelty and endless human suffering (on a universal scale and independently of any specific context). A matter that presents some difficulty is the positive justification of human dignity, initially found in antiquity and subsequently in European history, which is based on a person's qualities or capabilities (e.g. cognitive skills, the ability to make free decisions, etc.). A problem arises when this justification is applied to all those who lack the relevant qualities or capabilities or only possess them to a limited degree<sup>214</sup>, e.g. people with disabilities, coma patients, dementia sufferers, etc. The horrendous history of the T4 euthanasia programme shows that linking human dignity to a quality, capacity<sup>215</sup> or ability implies that the lack

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whose region the Grafeneck death camp was located.) Cf. Stöckle, Thomas, "Die Reaktion der Angehörigen und der Bevölkerung auf die 'Aktion T4'", in: Rotzoll, Maïke/Hohendorf, Gerit/Fuchs, Petra, *Die nationalsozialistische 'Euthanasie'-Aktion T4 und ihre Opfer: Von den historischen Bedingungen bis zu den Konsequenzen für die Ethik in der Gegenwart*, Paderborn/Munich/Vienna/Zurich 2010, 118–124, here 119f.

<sup>213</sup> By the time the official *Aktion T4* was discontinued, the toll at the various killing centres was as follows: Grafeneck 9,839, Brandenburg 9,772, Bernburg 8,601, Hartheim 18,269, Sonnenstein 13,720 and Hadamar 10,072. Cf. Hartheimer Statistik in: Klee, Ernst, *Dokumente zur "Euthanasie"*, Frankfurt 1985, 232.

<sup>214</sup> In view of this problem there is also talk of human beings being potentially or in principle capable of assuming legal obligations. Cf. Bielefeld, Heiner, *Menschenwürde: Der Grund der Menschenrechte*, ed. by Deutsches Institut für Menschenrechte, no place, undated, 15.

<sup>215</sup> Niklas Luhmann regards human dignity as a dimension which the individual – in the midst of role expectations in a differentiated society – must himself embody by building

of such capacity or ability in a person means he or she is no longer accorded human dignity to the same extent as to someone who does have the required quality or ability. While positive definitions of human dignity offer a substantial conception of what this entails, they also harbour dangerous potential for discrimination. The 20th century experience of suffering has shown that recognition of a universal and inalienable human dignity is far more likely to prevent injustice and human suffering. The Catholic Church has, therefore, expressed its endorsement of recognition and respect for human dignity, as expressed in the encyclical *Pacem in Terris* (1963), the declaration *Dignitatis Humanae* (1965) and the encyclical *Redemptor Hominis* (1979).<sup>216</sup>

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a personality with a consistent profile and exhibiting this to those around him. Luhmann considers this to be an achievement of the individual in modern society. Cf. Luhmann, Niklas, *Grundrechte als Institution*, Berlin 1965, 53f.

<sup>216</sup> Cf. Schuster, Josef, op. cit., 802f.