

Dignity, Human Rights and Social Work: What we can learn from the lived experience of those with Down Syndrome

Richard Murphy LLM, DIPSW, MSW

Seldom Heard Voices

My Interest

Since qualifying as a social worker I have worked in child Protection and then in mental health. I am a qualified Best Interest Assessor for the Deprivation of Liberty Safeguards and an Approved Mental Health Professional and continue to practice as both. I have developed an interest in Social Work and Human Rights law and have a masters in mental health law.

My interest became more focused following the birth of two of my daughters who have Down Syndrome. They are now 6 and 2 years old. Due to this I have had the opportunity to spend more time with carers and people with Down Syndrome and it has led me to reconsider what it is that makes life worth while, how we value the lives of people whose experience is markedly different than 'mainstream experience' and what their experience can teach us about the way we think about the concept of dignity.



Thesis

I will be undertaking this research via PHD study. I will be asking what a deep consideration of the experience of those living with Down Syndrome can teach us about how we think about human dignity and how the actual concepts underpinning the idea of human dignity embedded in the law impact upon the lives of those with Down Syndrome.

In particular I am interested in how assumptions about the fullest expression of being human are embedded in our ideas of dignity and what the implications of this are for those who have a different experience of life and perhaps how it leads us to undervalue or ignore the value of certain ways of being.

For example, if notions of the human person as a rational moral decision maker who is intended towards individual autonomy underpin our ideas of dignity what does this mean for those whose strengths are more relational and how does it lead us to privilege 'productive' ways of being over the value of just 'being with', or as the human person as relational.

Dignity and the Law

All human beings are born free and equal in dignity and rights

(Universal Declaration of Human Rights 1948, Article 1)

The concept of dignity is integral to international human rights treaties and is an essential concept in the elaboration of those rights (Feldman 2000). It has been integral to the case law of the European Court of Human Rights (Feldman 2000) to the extent the court stated it was the essence of the Convention. (*Pretty v United Kingdom* (2002))

Within English Law Douglas (2015) set out the case to establish dignity based human rights into the English jurisdiction, which historically avoided this approach. Recent Social Care Legislation has drawn on the term. For example, the Care Act 2014, in s1(2)(a) establishes its significance in relation to 'wellbeing' and that dignity includes treating the individual with respect.

The domestic courts also draw upon the concept in their interpretation of law. Most significantly, Lady Hale, in *Cheshire West and Chester Council v P* [2014] drew on the concept to establish that the right to liberty is the same for those with and without disabilities.

But what is dignity?

Questions ?

What ideas underpin our notions of dignity? What influences and assumptions are behind these ideas? What types of 'human rights' do these lead to? How has the law enabled or hindered the realization of the dignity of people living with Down Syndrome?

By listening and opening ourselves up to the lived experience of those living with Down Syndrome and their carers how can we discover new ways of being or rediscover the value of certain ways of being? How can this lead us to rethink human dignity and how can this challenge the legal concept of dignity?

Dignity, do we need each other to discover it?

Contact

Richard Murphy
Social Work Lecturer
Faculty of Health and Social Science
Bournemouth University
4th Floor Royal London House
Christchurch Road
Bournemouth BH1 3LT

Web: www.bournemouth.ac.uk

References

Books and Journals
Douglas, B, 2015. 'Undignified Rights: The Importance of a Basis in Dignity for the Possession of Human Rights in the United Kingdom'. *Public Law: The Constitutional & Administrative Law Of The Commonwealth*. 2, p. 241
Feldman, D, 2000. Human dignity as a legal value: Part 1. *Public Law(Win)*: 682-702

International Law

Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) (UDHR)

Statute

Care Act 2014

Case Law

Cheshire West and Chester Council v P [2014] UKSC 19, [2014] MHLO 16
Pretty v United Kingdom (2002) 35 EHRR 1