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Articles

Abstract

In this article, I argue that the right to dignity is more at home in administrative law than anywhere else. This argument goes against the grain of much constitutional scholarship and jurisprudence, where there is increasing interest in dignity as the foundational value, and of recent work in political philosophy that invokes dignity as the right of rights—the right that grounds all others. I defend the view that we should resist the temptation to make dignity the right of rights. Rather, we should see it as the way of understanding our relationship as rights-bearing individuals with the state. Put differently, the right to dignity is nothing more than the principle that individuals must be treated as equal before the law. Understood as such, dignity has a venerable presence in theories of constitutionalism. Dignity is not merely a synonym for equality, but also a useful, perhaps even an essential, way of making precise the right to equality before the law that is intrinsic to government according to law. My defence takes place in two contexts: the "wicked" legal system of apartheid South Africa and the "decent" legal system of contemporary Canada. These two contexts show in different ways why there is a core of equality—the specifically legal status of equal dignity—to the public law order of any law-governed state.

Book Reviews