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# Are human rights redundant in the ethical codes of psychologists?

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**Are Human Rights Redundant in the Ethical Codes of Psychologists?**

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**Author note**

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## HUMAN RIGHTS IN THE ETHICAL CODES OF PSYCHOLOGISTS

### **Abstract**

The codes of ethics and conduct of a number of psychology bodies explicitly refer to human rights and the American Psychological Association recently expanded the use of the construct when it amended standard 1.02 of the Ethical Principles of Psychologists and Code of Conduct. What is unclear is how these references to human rights should be interpreted. In this paper I examine the historical development of human rights and associated constructs and the contemporary meaning of human rights. As human rights are generally associated with law, morality or religion I consider to which of forms of these references most likely refer. I conclude that these references in ethical codes are redundant and that it would be preferable not to refer to human rights in codes. Instead, the profession should acknowledge human rights as a separate and complimentary norm system that governs the behaviour of psychologists and should ensure that they have adequate knowledge of human rights and encourage them to promote human rights. (163)

Keywords: code, dignity, ethics, human rights

### **Are Human Rights Redundant in the Ethical Codes of Psychologists?**

The term human rights first appeared in the Preamble of the 1977 version of the Ethical Principles of Psychologists and Code of Conduct of the American Psychological Association (APA; 1977) and the current code requires American psychologists to "respect and protect civil and human rights " (Preamble of APA, 2002). References to human rights also appear in other codes. For instance, General Principle A (Respect for the Rights and Dignity of People and Peoples) of the code of the Australian Psychological Society (APS; 2007), requires Australian psychologists to "engage in *conduct* which promotes equity and the protection of people's human rights, *legal rights*, and *moral rights*" (original italics). Similarly the South African Ethical Code of Professional Conduct (Professional Board for Psychology, 2002) requires South African psychologists to "strive for the preservation and protection of fundamental human rights in all professional conduct" (Standard 2.1.1).

In 2010 the APA introduced a further reference to the construct when it amended the code to clarify that standard 1.02 of the code may under no circumstances "be used to justify or defend violating human rights", but, as is the case with most other of these references, there is no indication how the construct should be interpreted (see Kinscherff & Grisso, in press). Despite this lack of clarity regarding the interpretation of human rights in codes there are psychologists who argue "that an overarching model of human rights can supplement the ethical code and thus offer psychologists an additional ethical framework" (Ward, Gannon, & Vess, 2009, p. 127).

Implicit in these references appears to be the belief that human rights constitutes a superior and universal code that can be used as a yardstick to measure ethical codes and remedy their limitations. This belief appears to be a reflection of many people's yearning to find "a body of eternal, exactly defined precepts, applicable to all men, at all times, in all

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places, under all circumstances” (Pound, 1960, p. 75). That psychologists believe that human rights can serve this purpose is unsurprising as it is seen as an ancient (see e.g., Khushalani, 1983) and superior (see e.g., Donnelly, 1989; and Pagels, 1979) norm system that is universal across cultures (see e.g., Manglapus, 1978; Nickel, 2007) and reflects the inherent and inalienable rights that all people are entitled to in order to ensure their adequate functioning as human beings (Freedon, 1991). Human rights have further in recent times achieved near sacred status (see e.g., Donnelly, 1989; Pagels, 1979; and Wilson, 1979). Criticism of, and reservations about human rights (see e.g., Husak, 1985; and Macintyre, 1981), such as that it may “carry overtones of ... [western] ... moral arrogance” (Sirkin, 1979, p. 32, and also see Huntington, 1996) and have a negative connotation amongst some people and groups (see Gauthier, 2009), have been isolated and muted.

It therefore appears irreverent to question the relevance of references to human rights in ethical codes. Yet, in this paper I conclude that references to human rights in ethical codes are redundant and do not complement them; but rather make codes more difficult to interpret. I come to this conclusion after examining the historical development of human rights (and other constructs closely associated with it namely natural law and human dignity), considering the contemporary meaning of human rights and the alternative interpretations that could be given to references to human rights in codes as well as possible justifications for referring to them.

### **Historical Review**

Human rights do not have ancient roots (Pagels, 1979; Wyzanski, 1979), but the ideas of human dignity and a superior supernatural norm system can be traced back to ancient western scholars. Plato (429-347 BCE), for instance, wrote that people can through reasoning identify an ideal world that differ from the world they experience through their senses (Plato,

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380BCE/2008). Aristotle (384-322BCE), in his discussion of political justice, distinguished between what today is known as *positive law* (made by people) and *natural law* which is “immutable and have the same validity everywhere” (Aristotle, c322BC/2004, p. 131) because it, in contrast to the positive law of a state, is based on universal and external factors.

Cicero (106-43BCE) was one of the first people to explicitly link human dignity to natural law which he defined as “conformable to nature, universal, unchangeable, ... [and] ... eternal” (Cicero, 54BCE/1841, p. 123). As a Stoic, Cicero (46-43BCE/1913) believed that humans are distinct from, and superior to, animals because the law of nature gives them the ability to reason and therefore the ability to control their drives, emotions and desires (Cancik, 2002; Ritschl, 2002) and they therefore have *dignitas* (the Latin for "worth, worthiness, merit" according to Simpson, 1971, p. 190). In ancient times dignity was more commonly used to describe rank, reputation or esteem of specific people and entities (Iglesias, 2001), also by Cicero, but in the relevant text (par. 1.30.105-107) he refers to it as something all people have (Cancik, 2002).

Human dignity is a complex anthropological construct that can be traced beyond Cicero to ancient Mesopotamia where it was linked to the notion that the king had the image of a god (*imago Deo* in Latin, Lorberbaum, 2002). In the book Genesis in the Hebrew Bible this idea was expanded to say that as *all* humans are described to have dignity because they have “unique status among the creatures in God’s creation ... for all have the image of the Creator” (Lorberbaum, 2002, p. 56). The concept also acquired a normative meaning as is illustrated by Genesis 9: 6 which provides that “Whoever sheds the blood of a human, by a human shall that person’s blood be shed; for in his own image God made humankind (Bible - New Revised Standard Version, 1989, p. 6). The word *kavod* (which, like the word *dignitas*, had more than one meaning in rabbinic law; Safrai, 2002) was, inter alia, used by the ancient

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Hebrew people to indicate the dignity humans have because they have the image of God (Lorberbaum, 2002; Ritschl, 2002).

Whilst natural law and human dignity can therefore be traced back more than 2000 years this cannot be said of human rights even though by passing the Edict of Milan in 313 (Robinson, 1966; Witte, 2007) Emperor Constantine (c272-337) gave Roman citizens religious freedom which is today considered to be an important human right (see e.g., article 2 of the Universal Declaration of Human Rights, United Nations, 1948). What Constantine granted here was not a right with correlative duties but a freedom (see e.g., Corbin, 1923-1924; Hohfeld, 1919) even though the Romans were familiar with the concept and for instance, recognised property and procedural rights (Nicholas, 1962; Witte, 2007).

A corollary of this Edict relevant to this paper was that it forced Christian church leaders to consider the relationship between Roman law and the authority of God. In order to reconcile the existence of both, St Augustine (354-430) used the Greek philosophers' distinction between a real and an ideal world to argue that human law co-existed with God's ideal, or natural, laws (Szabo, 1982). St Thomas Aquinas expanded this idea in greater detail in his *Summa Theologica* where he wrote that despite natural law's divine basis it is discoverable by humans because having the image of God they were rational beings. Later Catholic authors such as della Mirandola (c1487/1956) argued that because people are rational they have dignity (Cancik, 2002).

Even by the Middle Ages human rights were still unknown and the liberty and property granted to freemen by King John in the *Magna Carta* in 1215 (see Article XXIX of the version currently still in force, *Magna Carta*, 1297) were freedoms rather than rights with correlative duties. During the Renaissance, the protestant reformer Calvin (1509-1564) and his followers, though, insisted that they had a right, in the sense of entitlement, to religious freedom and that to protect their religious right correlative rights such as the right to

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associate, assemble, educate and speak had to be safeguarded as well (Witte, 2007). In developing these ideas protestant lawyers such as Grotius, and later Pufendorf (1717), whilst not necessarily abandoning the divine basis of natural law (see e.g., paragraph 11 of the Prolegomena to the Law of War and Peace of Grotius, 1625/1814), started secularising it by linking it to the rational and social nature of humankind, in particular humans' desire to live in a well-ordered society (Kahn, 2001; McLeod, 2010). By accepting a social contract between individuals and the state as the basis of natural law authors were able to conceptualise natural rights as expressions of individual entitlements rather than as a list of right and wrong behaviours (see e.g., Hobbes, 1651). In England this led to Locke (1690/2005) arguing for, in particular, the right to property and Milton (1744/2006) for free speech. Witte (2007) believes it also led to the adoption of legislation such as the Petition of Rights (1628) and the Bill of Rights and Toleration Act (1689). It was this understanding of their constitutional rights that American settlers took with them when they migrated to the American colonies in the early 17th century, and which would ultimately inspire the American Bill of Rights (for a full discussion see Paust, 1989; and Witte, 2007).

Most see the French Declaration of the Rights of Man and Citizen (1789) as the beginning of human rights (see e.g., Szabo, 1982). Rousseau's (1762/2002) *Social Contract* and the works of Kant (Reiss, 1991) and Locke (Jeremy Waldron, 1987), strongly influenced the content of this Declaration which proclaimed 17 rights as "the natural, unalienable and sacred rights of man" (Preamble), the first right being liberty and equality. Rousseau's philosophy was also used by contemporaries such as Paine (1792/2002) who argued that the recognition of rights was necessary to protect individuals from oppressive rule, especially those who could not protect themselves. During the 19<sup>th</sup> century Rousseau's communitarian ideas were used by those driving the abolition of slavery; the 1848 republican movement in Europe; and later the international labour movement (McCrudden, 2008). Rousseau's

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arguments were also very influential in South America where it, as Carozza (2003) demonstrates, blended with the indigenous human rights theories of scholars such as Las Casas to form a distinct Latin American tradition of human rights that was very influential in the creation of the Universal Declaration of Human Rights (Universal Declaration; United Nations, 1948)

Without ignoring Rousseau's (1762/2002) contribution to the theoretical basis for the human rights movement, it is Kant's (1724-1804) emphasis on human dignity in his moral, legal and political theories that are generally seen by modern authors to provide the moral basis for human rights (e.g., Arieli, 2002; Dworkin, 1977; Fletcher, 1984; Rawls, 1999). Kant was not the only philosopher who wrote about human dignity, Hobbes (1651) and Locke (1690/2005), though coming from different premises, saw it as a human interest that states and social institutions should safeguard. It is Kant's (1785/2001) view, however, that people should respect the human dignity of other people because they have the freedom and ability to make rational decisions, also about right and wrong behaviour, which is most closely associated with human rights. Kant's emphasis on human dignity and support for the universal validity of principles (Kant, 1785/2001, 1795/1991) influenced the German legislators of his time (Eckert, 2002; Reiss, 1991) and since (see e.g., the German Basic Law of 1949; Fletcher, 1984) to introduce provisions into their constitutions which acknowledge that humans' dignity give them innate rights.

### **The Contemporary Meaning of Human Rights**

At the dawn of the 20<sup>th</sup> century the concept of human rights based on human dignity was therefore established<sup>1</sup> but it had many critics. Hume (1739/2010), for instance, attacked the logic of the idea that human rights was a superior norm system pointing out that the argument such a conclusion was based on that was an example of the fundamental logical fallacy of trying to derive a moral value from a statement of fact. Bentham (1816/1987), a positivist who was dismissive of the idea of a superior norm system, analysed the French Declaration to demonstrate that some of the rights contained in it were contradictory (Bentham, 1780). Burke (1790/1987), on the other hand argued against the universality of rights because it ignores the real differences between societies whilst Marx (1844/1987) pointed to the individualist nature of rights and argued that human rights entrenches the position of capitalists who control countries. The human dignity basis of human rights was likewise criticised by Schopenhauer (1840/1903) who described it as a meaningless and baseless expression and Nietzsche (1872/2007) who denied that humans had dignity, or rights, or duties.

Many of these points of criticism have never been resolved (Gearty, 2006). There are still debates about whether a superior norm is possible (see e.g., Reynolds, 1993) and whether it is universal (see e.g., Donnelly, 1989); and Moghaddam and Lvina (2002) argue that the emphasis on human rights ignores collectives and the corresponding duties of humans. Similarly the basis of human rights, human dignity, is still seen as a construct without a clear definition (Bognetti, 2005; J. Waldron, 2009) and therefore of limited utility in law and ethics (Brownsword, 2003).

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<sup>1</sup> Although not in common use, the term was used, for example by President Thomas Jefferson (1743-1826) during his Sixth Annual Address to Congress (Jefferson, 1806) and *Human Rights* was the name of the journal the American Anti-Slavery Society published between 1835 and 1839 (Wyatt-Brown, 1969).

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Despite these criticisms human rights have, however, become increasingly prominent in contemporary religion (see e.g., Moyn, 2008), law (see e.g., Szabo, 1982; Vasak, 1982a, 1982b), and morality (see e.g., Donnelly, 1989). References in codes to human rights are therefore most likely to be to one or more of those forms of human rights.

### **Religion**

From the end of the 19<sup>th</sup> century the Catholic Church showed renewed interest in human rights and dignity, possibly in response to what it saw as the threat of socialism and the development of communism (McCrudden, 2008). Pope Leo XIII, for instance, acknowledged “the natural rights of mankind,” (*Rerum Novarum: On the Condition of the Working Classes*, 1891, ¶ 15) and linked them to “human dignity which God Himself treats with great reverence” (¶ 40). The Catholic Church’s emphasis on human dignity continued with the publication of documents such *Gaudium et Spes* (1965) and the *Pacem in Terris* (1963) and the reinterpretation of the work of St Thomas Aquinas by the Catholic philosopher Jacques Maritain. Yet, despite Maritain’s influence in the development of the United Nations Charter of Human Rights (Glendon, 1997-1998; Moyn, 2008) human rights is not a clearly developed religious construct and it is unlikely that the authors of codes are referring to it.

### **Law**

In contrast to religion, the human rights construct is well established in law. The areas of law where most development in human rights and dignity took place during the 20<sup>th</sup> century were private, constitutional and particularly international law.

### **Private law.**

The relationship between human rights and private law is indirect, but various dignity interests are protected through the law of tort in English law (Hammond, 2010) and by the *actio iniuriarum* in Roman law and in legal systems based on it, for example South African law (Burchell, 1993; Nicholas, 1962). Despite increased interest in using private law to protect human dignity (see e.g., Berryman, 2004; Hammond, 2010) and reforms in South Africa that link private law with the country's Bill of Rights (see Corder, 2005) there, however, is no indication that the references in codes are to private law.

### **Constitutional law.**

Commencing with the Constitution of Mexico in 1917 a number of countries incorporated references to human duties and rights in the constitutions (Iglesias, 2001). After the First World War the newly formed Weimar Republic, for instance, continued the German constitutional tradition of referring to human dignity by affirming in article 151 of the 1919 Constitution that economic life should be organised in a way that "provide humane existence for every one" (Eckert, 2002, p. 52). Other countries that include references to human dignity and right in their constitutions are, for example, Ireland (Constitution of Ireland, 1937); the Federal Republic of Germany (Eckert, 2002) and, more recently, South Africa (Constitution of the Republic of South Africa, 1996). Yet, only the South African code explicitly refers to the constitution of the country, but merely by acknowledging that the drafters of the code were guided by "relevant sections of the Constitution of the Republic of South Africa" (Preamble; Professional Board for Psychology, 2002).

### **International law.**

It is therefore most likely that references to human rights, if they are to law, are to human rights seen in international law, which is also the area of law where human rights have been most prominent during the last 70 years. References to dignity started appearing in international legal instruments since the early part of the 20<sup>th</sup> century (McCrudden, 2008). Human dignity and rights, however, became much more prominent in the international community's quest to find ways of avoiding future atrocities such as those that had been committed prior and during the Second World War. According to McCrudden (2006) it is unclear how the phrase *fundamental human rights* found its way into the Preamble to the Charter of the United Nations (United Nations, 1945), but when it came to drafting the Universal Declaration (United Nations, 1948) the authors thereof were intent on finding an *ultimate value* on which they could ground the various rights (Glendon, 1997-1998). They identified a list of basic rights and values that were common across nations and religions (Glendon, 1997-1998). Though they acknowledged that these rights and duties could be open to different interpretations and deliberately refrained from trying to get agreement on a theoretical basis for human rights (McCrudden, 2008), there is general agreement that the ultimate value that underlies the Universal Declaration is human dignity (Glendon, 1997-1998).

The Universal Declaration established the place of human dignity and rights as constructs in international law (Dicke, 2002), but despite the influential position of the UN instruments on human rights, human rights law is not universal. For instance, regional human rights instruments such as the African Charter of Human and People's Rights (Organization of African Unity, 1986); Arab Charter on Human Rights (League of Arab States, 2004); and the Cairo Declaration on Human Rights in Islam (Organization of Islamic Conference, 1990) all have unique features. In fact, they vary to such an extent that some

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appear to be inconsistent with the UN human rights instruments (see e.g., Rishmawi, 2010 on the Arab Charter). After comparing these and other similar instruments with each other and the UN Declaration, McCrudden (2008, p. 18) concluded that a “pluralistic, more culturally relative approach to the meaning of human dignity can be identified”. The variation in the interpretation of the term human dignity is also apparent when the case law of different countries are compared, irrespective of whether it is private (Berryman, 2004; Hammond, 2010); constitutional (Bognetti, 2005; Corder, 2005; Eckert, 2002; McCrudden, 2008; Paust, 1984; Szabo, 1982), or international (McCrudden, 2008; Szabo, 1982) law. These differences are even found between the United States and western countries in Europe (Benvenisti, 2005; Bognetti, 2005; Whitman, 2005). It is possible that the judiciary deliberately maintains this vagueness as it allows them to achieve social ends (Corder, 2005) and to incorporate local contingencies in the interpretation of human rights “under the appearance of using a universal principle” (McCrudden, 2008, p. 64). Human rights law is therefore not a unitary concept, but unique in so far as the social foundations of different countries and regions are reflected in it.

This does not, however, make the array of treaties that the UN has adopted since 1948 to give effect to the Universal Declaration less valuable. Some of them are of specific importance for psychologists acting in their professional capacities and include the treaties addressing the rights of people with intellectual (United Nations, 1971) or other disabilities (United Nations, 1981) and mental illness (United Nations, 1991). The Convention on the Rights of the Child (United Nations, 1990) and the Declaration on the Rights of Indigenous People (United Nations, 2007) are of particular importance to psychologists working with children and indigenous people respectively. Similarly psychologists working with victims should be familiar with the conventions on degrading treatment (United Nations, 1975) and

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the basic principles of justice for victims of crime and abuse of power (United Nations, 1985).

### **Universal Moral Rights**

Some scholars who are not “part of a political philosophy with an accompanying epistemology” (Nickel, 2007, p. 7), see human rights as extra-legal or theological moral rights that all humans have and which should also regulate their everyday human behaviour (see e.g., Moghaddam & Lvina, 2002). These scholars do not form a united group with a collective understanding of human rights and there is thus no universal and generally accepted agreement on the exact nature of human rights as a moral concept (Husak, 1984, 1985).

Donnelly (1989), who is arguably the person who has done most to develop human rights as a moral construct, describes it as highest order social practices that flow from people’s moral nature and vision and are reinforced by the force of their morality. He believes that even people who do not enjoy human rights have them because it is impossible to lose them because people always have a right to claim that social institutions and practices should be such that they can live “a life *worthy* of a human being” (original emphasis, Donnelly, 1989, p. 17). To particularise human rights Donnelly submits that because a large number of countries have adopted the Universal Declaration (United Nations, 1948) and the International Covenant (United Nations, 1966) on Economic, Social, and Cultural Rights (United Nations, 1966) these instruments together reflect an “international normative consensus” (Donnelly, 1989, p. 23) of human rights that should be respected. He therefore considers the rights identified in these instruments to represent an internationally and generally, though not universally, agreed upon list of human rights and refers to it as the International Bill of Human Rights (see also, Nickel, 2007).

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Donnelly (1989), like theologians and lawyers, considers human dignity to be the basis of human rights and defines human dignity as the acceptance that all people are equal and endowed with inalienable rights that can be claimed against society as a whole. This form of human dignity, he believes can be found in some form or other in most cultures (for a similar conclusion see e.g., Pagels, 1979), but he concedes that there are social divisions in many cultures that negates equality in them. Other authors, however, have much broader ideas of human dignity such as that it incorporates sub-concepts such as human needs (Bay, 1977, 1982; Galtung, 1994); evolution and human development (O'Manique, 1990) and human well-being (Gewirth, 1985). Human dignity is also not necessarily seen as inherent in humans, but for scholars such as Ritschl (2002) it is communicated to people by the words and acts of others and it is therefore imparted through the behaviour of people. Torturing another therefore calls in question the human dignity of the torturers. In contrast Meyer (2002) proposes that people have a sense of their own dignity which leads them to act in a way that will not humiliate or dehumanise others. People's definition of human dignity is therefore subjective and it is inevitable that different people, groups and cultures may have different interpretations of what human dignity constitutes (Donnelly, 1989).

### **Human Rights in Psychological Codes of Ethics**

How does a psychologist therefore interpret a reference to human rights in a code if the construct is not defined? To interpret it as a reference to human rights as a moral construct is problematic because in the absence of a universally acceptable code psychologists are forced to engage in "pick-and-choose cafeteria style ... [and] ... opportunistic interpretation and uses" of various publications (Glendon, 1997-1998, p. 1153), including the provisions of the UN instruments. As mentioned above Donnelly (1989) tries to overcome this problem by submitting that human rights are the rights set out in specific international law instruments.

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As will be discussed below it is not clear exactly what obligations this places on psychologists, but it is notable that Donnelly's definition excludes instruments such as the Declaration on the Rights of Mentally Retarded People (United Nations, 1971) which are, arguably, a very important instrument for psychologists to take into account.

To interpret a reference to human rights in a code of ethics as a reference to law makes little sense as the *rule of law* provides that no person, including a psychologist, is beyond the law. Psychologists must therefore respect and act in accordance with the law of the jurisdictions in which they practise. Even where there is no reference to human rights in their ethical codes, psychologists are bound by the human rights provisions in the constitutions and other domestic legislation of the jurisdiction where they reside or practice.

Psychologists are, however, not automatically bound by the UN treaties as they are instruments of international law and therefore bind countries and not, as a general rule, individuals. Psychologists will therefore be subject to only those aspects of the UN treaties which form part of the domestic law of the jurisdiction they reside or practice in. In practice this means that there are many provisions of the UN instruments that psychologists are not legally bound to adhere to. As codes are aspirational documents it is, nevertheless, possible to require in them that psychologists respect the whole body of international human rights law even where their governments have not ratified a treaty or incorporated it in domestic legislation. This appears to be what the drafters of the APS Code of ethics (Australian Psychological Society, 2007) did by defining moral rights as "human rights that might or might not be fully protected by existing law"<sup>2</sup> (Definition of moral rights, Australian Psychological Society, 2007). The problem with this approach is that it requires

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<sup>2</sup> Whilst the wording of the definition is clear it seems to make the reference to moral rights in General Principle A of the APS code redundant. This principle provides that psychologists "engage in conduct which promotes equity and the protection of people's human rights, legal rights, and moral rights".

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psychologists to adhere to *all* the UN instruments, which is unrealistic as these instruments are meant to bind states, not individuals.

A further difficulty is that the word *rights* as used here suggests that psychologists have obligations or duties in respect of at least one other person (see e.g., Corbin, 1923-1924). What is unclear is *who* psychologists, as psychologists, owe an obligation to and *what* exactly the nature of that obligation is. For instance, how should psychologists interpret article 11(1) of the International Covenant on Economic, Social and Cultural Rights (Covenant; United Nations, 1966) which provides that:

The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself (sic) and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

This provision clearly places an obligation on states to take steps to ensure that their citizens have an adequate standard of living, but it does not tell psychologists, for instance in private practice, what exactly their obligations are and to whom they owe them. One possible interpretation is that psychologists should take active steps to provide these basic living requirements, another is that psychologists should create an environment where the state provides for such needs, whilst a third is that psychologists should not do anything to interfere with the state's attempt to provide such requirements to people in need.

As Kinscherf and Grisso (in press) demonstrate with reference to standard 1.02, these are not the only interpretation problems; there are for instance circumstances where there are differences between what is acceptable under American law, Standard 1.02, and international human rights instruments.

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Despite these difficulties it is possible to argue that such references are justified if they add something to codes that are lacking and cannot be remedied in another way. There appears to be two such possible justifications.

First, such references would be justified if they add to the theoretical basis of codes. This is, however, not the case. As in the case of human rights, the ethical codes of western psychologists are closely linked with Kant's moral philosophy (see Carroll, 1991; Carroll, Schneider, & Wesley, 1985) and as far back as 1942 Harold Hand (cited by Bixler & Seeman, 1946) identified the dignity of people as a value psychologists respect. The term dignity first appeared in the 1959 APA code (American Psychological Association, 1959)<sup>3</sup> and in Australia it can be tracked back to the 1986 APS Code (Australian Psychological Society, 1986) where it was used with reference to research participants. Currently human dignity and dignity are explicitly mentioned in, for example, Principle E of the APA code (American Psychological Association, 2002) and Principle A of the Australian code (Australian Psychological Society, 2007). What is different, however, is that ethical codes stress psychologists' *obligations* towards other people, groups and society as a whole and their moral duty to respect human dignity in themselves and others. In contrast, human rights law is prescriptive, emphasises the individual and enforceable nature of rights and requires external compulsion (for the limitations of this approach see Glendon, 1991).

A second potential justification is that references to human rights link ethical codes to a universal code that extends and supplement limitations in them. As demonstrated above human rights is, however, neither a unitary nor a universal construct (see e.g., Carozza, 2003; Donnelly, 1989; Pagels, 1979). If the drafters of codes want to refer to ethical principles that are generally acceptable by psychologists at an international level, there is another more

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<sup>3</sup> The word dignity appears in the 1953 APA Code, but was used to describe how psychologists should act when they inform the public of their services.

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practical pathway. They can rather refer to the Universal Declaration of Ethical Principles for Psychologists (Ethical Principles; 2008) which were developed by an *ad hoc* joint committee of the International Union of Psychological Science (IUPsyS) and the International Association of Applied Psychology (IAAP). This committee collected data from psychologists of different cultures, nations and religions (Gauthier, 2004, 2008, 2009; Gauthier, Pettifor, & Ferrero, 2010). As is the case with the Universal Declaration (United Nations, 1948), which is seen as the backbone of human rights law, the aim with these Ethical Principles is to protect society from harm and to enhance the quality of the life of all people by providing “a moral framework of universally acceptable ethical principles based on shared human values across cultures” (Gauthier et al., 2010, p. 180). In contrast to most UN instruments, however, the Ethical Principles are aimed at psychologists, not states; is aspirational and inspirational rather than prescriptive; and is a statement of ethical principles to guide and inspire “psychologists worldwide toward the highest ethical ideals in their professional and scientific work” (Preamble, 2008), rather than a set of specific human entitlements that should be promoted and protected (Gauthier, 2009).

### **Conclusion**

It is unclear what source psychologists should use when interpreting references to human rights in codes (also see Kinscherff & Grisso, in press). In the absence of a clear definition of human rights, the most feasible interpretation is that they should consult international human rights law. This is problematic, however, because the imprecise nature and complexity of human rights law and its prescriptive nature (in contrast to the obligation based nature of professional ethics in psychology) introduce a level of uncertainty that should be avoided in codes of ethics. Especially as these references to human rights do not add to codes’

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theoretical basis or give psychologists access to a superior and universal code that they can use as yardstick to judge, or to augment, their ethics code.

Human rights law, however, has, and remain, influential in moving countries to respect the dignity of their citizens and to promote those of non-citizens. Even where human rights does not have the force of law behind it, the religious and moral power of the construct have been used politically to focus the attention of individuals and entities on how important it is for countries to respect the human dignity of their own citizens and other people (Wilson, 1979). All psychologists should therefore have knowledge of human rights law. At a general level they should know what human entitlements most countries recognise, and which they should therefore ideally promote and protect in their countries and other countries where they work. At a more specific level they should know about the various UN human rights instruments; in particular those that are relevant to the areas in which they work. Trainee psychologists should therefore be taught about human rights law and how to reconcile real or apparent conflicts between what is permissible under their domestic law, their codes of ethics, and the various instruments of international human rights law.

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