

# Human Dignity

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VB Editorial Staff

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After the catastrophes and crisis outbreaks of the recent past, it was usually a matter of days or even hours before we received a flood of submissions. The demand for jurisprudential expertise was enormous, obvious and urgent. Legal academia – after a moment of catching its breath and organising its thoughts – stood ready to meet this demand in the form of blogposts on Verfassungsblog, and we stood ready to publish them. The outbreak of the Covid pandemic, the war of aggression against Ukraine – legal standards were needed by which to distinguish the amorphous horror into right and wrong, scholarly perspectives by which to direct the view of events.

Now, with the massacre committed by the terrorist organisation Hamas in Israel last weekend, everything seems to be different. Speechlessness and perplexity seems to prevail in the global constitutionalist community, ourselves included. To enter into a debate on the legal assessment of the consequences and effects of this massacre without first addressing the massacre itself seems grossly inadequate. To reflect on the illegality or justifiability of this massacre seems grossly inadequate as well: this was an attack on human dignity. That and only that is what needs to be said.

We will not publish any texts or comments that in any way relativise the human dignity of those murdered and kidnapped by Hamas and attempt to justify these attacks as a reaction to or defence against other injustices. Human dignity is absolute. That is the guiding principle of our editorial decisions in dealing with this catastrophe and all others that will follow from it.

The imperative to protect human dignity only applies absolutely if it applies universally, and it only applies universally if it applies absolutely. This is the condition of the possibility of human rights, the rule of law and democracy, and thus of all that we do here on Verfassungsblog. The imperative to protect human dignity is both universal and absolute. This is not up for discussion. We will not publish texts and comments that call for the dehumanisation of Palestinians.

What follows from this absolute and universal imperative in specific case constellations, however, can and must be discussed. It is our job to open up the space for discussion and we will do our best to fulfil it. Anyone who can contribute to this discussion – within the limits described – is cordially invited to do so.

*The editorial staff*

## The Week on Verfassungsblog

... summarised by MAXIMILIAN STEINBEIS:

In response to the massacre and hostage-taking by Hamas terrorists on 7 October 2023, we have published an appeal by [Israeli international law experts](#).

This weekend, a new parliament will be elected in Poland and the question answered whether the authoritarian-populist constitutional abuse by the PiS government will continue or be stopped. What will remain difficult to answer, even in the case of a change of government, is the question how to reverse the constitutional abuse that has already taken place. To discuss this, we have set up a blog symposium together with our friends at Democracy Reporting International. [JAKUB JARACZEWSKI](#) explains what is at stake. [GRAZYNA BARANOWSKA](#) looks at the **plebiscitary referendums** that the PiS government is using to turn the mood in its favour by means of loaded questions. [MACIEJ KISILOWSKI](#) examines how the current PiS government could sabotage the **peaceful transition of power** after an election defeat. [BARBARA GRABOWSKA-MOROZ](#) and [MALORZATA SZULEKA](#) analyse how a new government could solve the dilemma that many **judges** in Poland have now come to their posts in an unconstitutional way. [MARCIN SZWED](#) explains how the deeply compromised **Constitutional Court** could now proceed, and [KRZYSZTOF IZDEBSKI](#) argues for its fundamental reform. The key role and future of the „Chamber of Extraordinary Control and Public Affairs“ which has been installed by the PiS government at the **Supreme Court** is examined by [MACIEJ TABOROWSKI](#) and [PAWEL FILIPEK](#). Further contributions will follow.

Outside the framework of the symposium, [TOMASZ T. KONCEWICZ](#) looks at Poland's future as a member state of the European Union after this momentous election with so much at stake for the future of democracy in Europe.

Last Sunday, the AfD emerged as the strongest opposition party in two West German states. Is the Basic Law defenceless against the rise of authoritarian anti-constitutional parties? [GERTRUDE LÜBBE-WOLFF](#) explains in a warmly recommended long read that this narrative of defencelessness was already untrue in relation to the Weimar Republic and served first and foremost to exonerate those indeed responsible. With the **party ban** (Article 21) and the **forfeiture of fundamental rights** (Article 18), the Basic Law provides two instruments. As far as the party ban is concerned, using it is in fact possibly already too late for the AfD, for which the BVerfG cannot necessarily be blamed, whose case law has been interpreted more restrictively than necessary. There is also no constitutional objection to the banning a party in just one state, such as Björn Höcke's Thuringia. The other, largely forgotten instrument that the constitution provides in the fight against enemies of the constitution, however, promises more success: the forfeiture of fundamental rights.

Meanwhile, the Bundestag is debating how the AfD-affiliated Desiderius Erasmus Foundation can continue to be kept away from the state foundation funding money pots. According to [ADEN SORGE's](#) analysis, the draft **foundation funding law** provides the AfD with constitutional points of attack „on a silver platter“.

In the wake of the Bavarian and Hessian state elections, a broad swath of the party spectrum is currently agreeing that the actual problem in need of a solution is the presence of too many **asylum seekers** in Germany. [ROSA-LENA LAUTERBACH](#) calls the idea of securing their subsistence level in future by non-cash benefits a „populist sleight of hand“.

The European Court's ruling on **Frontex's** responsibility for human rights violations at the EU's external border has already received a lot of criticism. [CATHARINA ZIEBRITZKY](#) directs attention to the positive aspects of the decision.

In France, the „united and indivisible nation“, President Emanuel Macron has promised **Corsicans** regional autonomy and a constitutional amendment to deliver it. [SARAH GEIGER and PIERRE-EMMANUEL RODRIGUEZ](#) explain why this is constitutionally viable but politically a lot less so.

**Denmark** is currently going through a huge intelligence service scandal. [MARC SCHACK](#) spells out how this came along and what is at stake.

In Italy, the Melloni government is defending **national food sovereignty** with a ban on lab-grown cultivated meat derived from cell cultures, which is nowhere near marketable anyway. [GUIDO BELLENGHI and LUCA KNUTH](#) call this „a punch in a fight where the opponent has not shown up yet“ and describe the matter as a piece of nationalist hyper-politics.

Finally, an announcement on my own behalf: Next week, I will take a break. The next editorial will be on October 27th.

All the best, and bon courage,

Max Steinbeis

