

# Hans Wagner's Transcendental Argument for the Idea of Human Dignity<sup>1</sup>

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**ABSTRACT** Hans Wagner (1917–2000), using the achievements of German transcendental philosophy, gives a transcendental argument for the idea of human dignity. He claims that to ground the validity of human thinking and all its products (e.g. culture), we must accept the validity of the idea of human dignity. The structure of my paper is as follows: First, I consider what it means to give a transcendental justification of something. I reconstruct the neo-Kantian's understanding of transcendental method. Then I argue that Wagner's idea of human dignity as a foundation of every ethics and law is nothing other than a fruitful interpretation and continuation, perhaps only making *explicit* Kant's main ethical ideas. To make this more clear I present the relation between Kant's ethics and the material ethics of values and, following Wagner, I argue that grounding ethics on the idea of self-determination of human will does not necessarily lead to formalism in the form in which it was criticised by the representatives of the material ethics of values. Finally, I reconstruct Wagner's argument for the claim that the idea of human dignity is a transcendental condition for the possibility of ethics and law in general.

**KEYWORDS** human dignity; Kant, Immanuel; neo-Kantianism; philosophy of law; transcendental argument; transcendental method; Wagner, Hans

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## 1. INTRODUCTION

In his work *Die Würde des Menschen* Hans Wagner states that nowadays we are suffering from a disastrous case of schizophrenia which lies in the fact that, on the one hand, we recognise human dignity as an inviolable fundamental value and, on the other hand, we still lack the theoretical argument to justify this dignity. Therefore, the real contemporary philosophical task is to answer the question: “What is the inviolable dignity of man, what does it consist of, what is it based on?”<sup>2</sup> (Wagner 1992, 137).

Wagner’s philosophy is the attempt to answer these questions, i.e. the attempt to give a transcendental justification for human dignity. According to him, the idea of human dignity is a transcendental condition of ethics and law in general. But to understand what it means we have to consider his thought in the context of Kantian and neo-Kantian philosophy. Hans-Ludwig Ollig classes Wagner as neo-neo-Kantianism (Ollig 1979), which means that we are not dealing here with classical neo-Kantianism (which was developing in Germany in the second half of the nineteenth century), but with an attempt to renew the philosophical perspective characteristic of neo-Kantianism after World War II. The main issue of Wagner’s philosophy is still the neo-Kantian problem of the validity of science, humanities, and all elements of human culture (Grünwald 2006; Krijnen and Zeidler 2017; Pietras 2018), but in his analyses of this problem, Wagner also uses later scientific and philosophical achievements.

## 2. TRANSCENDENTAL METHOD

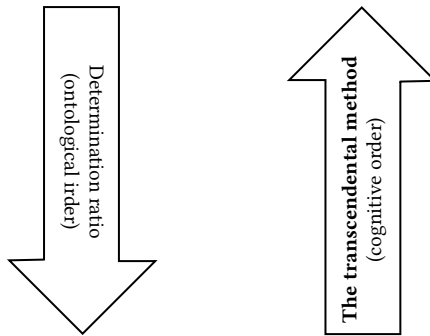
In his philosophy, Hans Wagner uses the transcendental method as it was formulated in reference to Kant by Marburgian neo-Kantians (Herman Cohen, Paul Natorp, Ernst Cassirer) and Badenian neo-Kantians (Wilhelm Windelband, Henrich Rickert, Emil Lask). Despite all the differences between these two main neo-Kantian schools and the differences within the schools, there is one very important common element in their interpretation of Kant. They believe that the essence of the spirit of Kant’s philosophy is the transcendental method.

Probably the best explicit formulation of the neo-Kantians understanding of the transcendental method is the one formulated by Nicolai Hartmann, who in the article “Systematische Methode” writes: “the transcendental method is then the procedure according to which, starting from the reality of an object, one concludes the conditions of its possibility” (Hartmann 1912, 125).

2. All translations were made by author unless stated otherwise.

In other words, when we use the transcendental method we start from some object which is given, from some fact, phenomenon (where the words “fact” and “phenomenon” mean “something which is given,” “something which is present,” *etwas, das vorhanden ist*) and then we look for the conditions of possibility (*die Bedingungen der Möglichkeit*) of this fact, phenomenon, object—as per *Figure 1* below (see also Pietras 2021).

Conditions of the possibility (*die Bedingungen der Möglichkeit*):  
 PRINCIPLE, FOUNDATION (*Satz, Grund*)



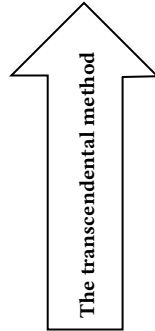
What is conditioned (*Folge*):  
 OBJECT WHICH IS GIVEN (*etwas, das vorhanden ist*), FACT,  
 PHENOMENON

*Figure 1*

There is also one important point regarding neo-Kantians’ interpretation of Kant’s method, which we must make in order to understand Hans Wagner’s argumentation. In the Marburgian and Badenian interpretation, the transcendental method is strictly distinguished from the psychological method. The transcendental investigation is not a search for, and description of, the source of cognition but a question about the basis of the validity of cognition, about the source of the legitimisation of cognition. Neo-Kantians oppose any interpretation of Kant according to which the investigation of the conditions of the possibility of our experience of objects means examining human mental capacities. The transcendental investigation is not about the mental but about the logical conditions of possibility. It is because the mental facts investigated by psychology (by using the psychological method) are also empirical facts that they require their own transcendental legitimisation (see *KrV*, A 402). The transcendental method is not dealing

with the question about the genesis of human judgments but with the question about the validity of human judgments. The main philosophical question is “*quid juris*,” not a question “*quid facti*” (see *Figure 2*).

Conditions of the possibility  
=
   
conditions of validity (logical conditions)



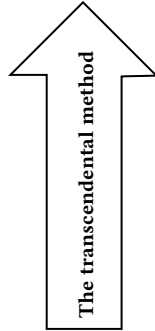
Object, fact, phenomenon

*Figure 2*

### 3. THE SYNTHESIS OF KANT'S ETHICS WITH THE MATERIAL ETHICS OF VALUES

It is exactly this kind of reasoning which Wagner uses to validate the most fundamental axiom of ethics. He claims that the idea of human dignity is a condition of the validity of every ethics and law. It means that to theoretically justify any ethical or legal statement we must first acknowledge the absolute validity of the idea of human dignity (See *Figure 3*).

Conditions of the possibility (conditions of validity):  
**the idea of human dignity**



Object, which is given:  
**moral statements/judgements (ethics), norms (law)**

Figure 3

The fact from which Wagner starts his argument is the existence of ethics and law as common human phenomena. And the condition of these phenomena is the idea of human dignity.

Wagner's philosophy can be treated simply as a specific, contemporary interpretation of Kant's ethics: as an attempt to reconcile Kant's ideas with ideas of his later critics. Since Wagner is philosophising in the second half of the twentieth century, he must also take into consideration the criticism of Kant's ethics that took place in the so-called school of material ethics of values (Scheler 1916; Hartmann 1926). And he does this in a very valuable way, namely by synthesising Kant's formal ethics with the material ethics of values. Wagner writes:

*Die Begründung der Ethik aus der Idee des Selbstgestaltung des Willens impliziert keinen Formalismus des Ethischen in einem Sinne, daß ihm die Forderung einer materialen Wertethik entgegengesetzt werden könnte.*

The grounding of ethics on the idea of self-determination of will does not necessarily lead to formalism in the sense in which it would deny the requirements of the material ethics of values. (Wagner 1959, 247)

Kant's fundamental formal ethical law (categorical imperative) does not indicate either the content of the will or even the source of the content

of the will, but only the source of the validity of the content of the will. The formalism of Kant's supreme law of morality does not contradict the possibility of being materially-filled but it indicates only the source of the legitimacy of any such fulfilment. The only possible source of moral laws' validity is the autonomous will—the act of self-determination of the will.

Wagner's answer to the question, who this self-determining autonomous will is, is quite different from Kant's answer or maybe, to give justice to Kant, just more detailed than Kant's answer. It is because the development of philosophy in the twentieth century (i.e. the philosophy of Emil Lask, Martin Heidegger, Jean-Paul Sartre, Nicolai Hartmann, Richard Höningswald etc.) led to knowledge of the necessary inseparable relationship between transcendental subjectivity and concrete (personal) subjectivity. The transcendental subject, which has been interpreted as an objective spirit (culture, i.e. norms, standards, criteria, axioms, postulates), is a source of validity of all ethical judgments made by concrete, real subjects, by real, living persons. These norms, standards, axioms created and objectified by people in the culture (in the form of such manifestation of objective spirit as law, morality, ethics, art, religion, science etc.) constitute formal conditions of validity of all material decisions made by concrete living persons.

But the expression "formal conditions" does not mean that there is no content in these norms. On the contrary, I claim that even Kant's categorical imperative has a material content, because it is founded on the choice of a certain value. This value is human and his/her dignity. It is why we can treat Wagner's ethics as a continuation of Kant's ethics. Wagner makes explicit the material content (and by material content I understand, after Scheler and Hartmann, a reference to the value) which is implicit in Kant's imperative.

When we analyse Kant's formulations of the categorical imperative, we can see its commitment to the value of each human being (person). There are 3 main formulations of Kant's categorical imperative:

1. Act only in accordance with that maxim through which you can at the same time will that it become a universal law (*GMS*, AA 6: 421).
2. Act that you use humanity, whether in your own person or in the person of any other, always at the same time as an end, never merely as a means (*GMS*, AA 4: 429).
3. From this there follows now the third practical principle of the will, as supreme condition of its harmony with universal practical reason, the idea of the will of every rational being as a will giving universal law (*GMS*, AA 4: 431)

Kant's categorical imperative is a material judgment, which we can formulate thus: Every human being is a value in itself, every human being has the same value, the will of every human being has the same value as an instance that formulates universal law, and because of this material judgment, there are at least three formal conditions which have to be met for the law to be valid:

- 1) The law, regardless of its detail content, should always be the same for every human being.
- 2) Constituting the content of the law, regardless of its detailed content, one should treat every human person, not as a means only, but always also as a goal in itself.
- 3) The will of every human being has the same value.

To understand the essence of the relation between these formal conditions of validity of normative judgments and the concrete particular matter of detailed normative judgments, one can refer to Emil Lask's understanding of the division into matter and form as only functional and not substantial. "Form" and "matter" are relational concepts, which derive their sense only from their mutual relationship. Something is not the form in itself but only the form for something else (for some matter) and vice versa.

The relation between any formal and material norms is exactly of this kind. The norms which are material on the more fundamental level are treated as formal on the less fundamental and more specific level. These material judgments, like Kant's categorical imperative, are constituted as a meta-norm (the norm from the more fundamental level of rules), and only in this sense can we call it formal. These more fundamental meta-norms are the formal conditions for our further material normative judgments, and by conditions, I mean the conditions of their validity. It means that the rules from the lower level are valid only as long as they are compliant with higher-level standards. To make this more clear I will explain using some real examples.

The modern European democratic systems are based on the form of authority which Max Weber called legal-rational authority. In this type of authority, the validity of the power is based on the compliance of a concrete real case of choice of authorities with the legally established formal rules of the election. If someone proves that the election of the current authority took place in a manner inconsistent with these principles, he proves that the power of this authority is invalid.

The second example: in the Polish political system the constitution is the most fundamental legal document of the national legislation. This means that the norms stated in the constitution are the formal conditions

for the validity of every other, lower norm established in the state. If any of the norms established by the government is not compliant to the constitutional norms, then—in consequence—this newly established law does not have validity.

The essence of the relation between the laws from the different levels is such that: higher norms (meta-norms) are the formal condition of the validity of the lower norms. Emil Lask writes: “The formal positiveness of the law is nothing but a kind of validity” (Lask 1905, 5).

But more the interesting issue is whether meta-norms prejudge the content of the lower norms, which leads us to the more fundamental philosophical question concerning the general relation between the form and the matter. Meta-norms do not prejudge all the detailed content of less fundamental, more specified norms, but—as a form—partially limit their content. I think the best way to describe this relationship is by using Nicolai Hartmann’s recognition of the relations between the category of different levels of reality which he called the law of matter. The law of matter states:

The lower categories determine the higher ontological stratum either as a matter or as a basis for its being. So they only limit the scope of the higher categories but do not determinate their higher form or peculiarity. (Hartmann 1953, 87)

We can apply this to the consideration of the relations between norms from different levels and say that: The formal meta-norms (more fundamental laws) only limit the scope of the material norms (less fundamental laws) but do not determinate all their matter or peculiarity.

Let me give a few examples. When we have a formal meta-norm which says: “Everyone is equal before the law” (*A1*), this norm is a formal condition for each more detailed law’s norm and as a form, it limits the scope of all further, less fundamental material norms but it does not determinate all their matter or peculiarity. It means that all norms *a1*, *a2*, *a3*, which are subordinate under *A1* are with regard to scope limited in their content by the condition of the equality—which is a material content of the norm *A1* and, at the same time, a formal condition for the validity of norms *a1*, *a2*, *a3*. But, as we can see, the norm *a1* is not determined in all its own matter or peculiarity by the norm *A1* because *A1* does not say what should be the whole content of norm *a1*; it only says that this content should meet the condition of the equality (in some way interpreted) of every person subordinate to the norm *a1*. The norm *a1* can say “every person has the right to own property” or “when conditions *x1*, *x2*, *x3* are met, every person



has the right to own property” or even “no person has the right to own property.” But it cannot say “under the same conditions some persons have the right to own property and some have not this kind of right” if it does not justify this inequality of rights by some other more fundamental norm which is accepted in some rational way.

Here is a second, different example: If there is in some general national school codex of the country X a meta-norm which says: “The teacher is obliged to inform the parents about their children’s learning progress” (*c3*), this norm can be understood as a formal condition for less fundamental and more detailed norms *c3.1*, *c3.2*, *c3.3*, established in the statute of some concrete primary school in the town Z subordinate to the law of state X. As in the previous example, all norms *c3.1*, *c3.2*, *c3.3*, which are subordinate under the norm *c3*, are to some extent limited by the meta-norm *c3* by the condition of informing parents—which is a material content of the norm *c3* and, at the same time, a formal condition of the validity of norms *c3.1*, *c3.2*, *c3.3*. But norms *c3.1*, *c3.2*, *c3.3* are not determined by norm *c3* in all their own detailed content. They can, for instance, include the specifying of such details as frequency and forms of this informing parents. It means that if in the statute of this school there is the norm which says: “The teacher is obliged to inform the parents about their children’s learning progress once per semester by email or phone” (*c3.1*) or “The teacher is obliged to inform the parents about their children’s learning progress at least once a year in a personal meeting with them” (*c3.2*), both these norms *c3.1* and *c3.2* are consistent with the meta-norm *c3* and on this basis they have validity. But if there were in this school’s statutes the norm which said: “If parents do not reply to the teacher’s emails, he is no longer obliged to inform them about their children’s learning progress, and he can stop writing emails or contacting them in another way” (*c3.10*), the norm *c3.10* would not be consistent with the meta-norm *c3* and, for this reason, it would not have validity at all.

#### 4. WAGNER'S TRANSCENDENTAL ARGUMENT FOR THE IDEA OF HUMAN DIGNITY

The relationship between the idea of human dignity and any other material ethical statement is just of this kind. Since the validity of the positive law is based on the axiom of human dignity, it means that each law which in some way denies the dignity of a certain group of people or even one human being is invalid.

To argue for this thesis Wagner refers to “the condition of human knowledge and culture in general” (Wagner 1959, 1992). Just like Marburgian and Badenian neo-Kantians, Wagner is looking for the most fundamental

condition of the validity of human culture. After analysing the development of German transcendental philosophy—from Kant, through German idealism, neo-Kantianism, Husserl's transcendental phenomenology, the philosophy of the empirical subject (Richard Höningwald, Martin Heidegger, Jean-Paul Sartre) to his own lifetime—he states that in the development of this tradition, philosophical reflection discovered the dialectical relation between (a) transcendental subjectivity, understood in this tradition as an absolute criterion of validity of all thinking, and (b) finite concrete subjectivity. Thus, the tradition of German transcendental philosophy reveals two inseparably connected aspects of human thinking: its absoluteness and its finiteness (Wagner 1959; Brelage 1965).

The essence of the problem of the relation between transcendental subjectivity (as an absolute criterion of validity of all thinking) and concrete subjectivity finds its best explication in the philosophy of spirit as a relation between objective and subjective (personal) spirit. This relation is dialectical, which means that the objective spirit (transcendental subject) and the personal spirit (concrete subject) exist only in an intimate relationship. On the one hand, each personal spirit is determined by the objective spirit (culture and society) in which he lives; on the other hand, the objective spirit—both in its content and in its existence—depends on the existence of personal spirits who create it and who are its bearers (Hartmann 1949). The great analyses of this dialectical relation are also made in the field of sociology of knowledge (Berger and Luckmann 1966). This dialectical relation is a source of universal philosophical scepticism because in it philosophical reflection discovers that: (a) it is itself the basis of its own validity and (b) it is always and it must necessarily be finite and unfinished. But Wagner claims that the real understanding of this dialectical relation is also the real cure for any extreme philosophical scepticism. Philosophical reflection—if it does not want to invalidate its own results—cannot deny its own abilities (Wagner 1959).

Wagner's argumentation for the thesis that idea of human dignity is the last and most fundamental condition of all human culture is as follows: If the only source of validity of all normative judgments, objectivised in culture, is a concrete human being (person), and if the ability to judge is a common human ability, and if every single person is limited through his specific human finite and unique experiences and, because of that, can be wrong, then: the only formal and necessary protection against all possible negative consequences of errors in the content of ethics and positive law is the transcendental principle of human dignity, i.e. the idea that the existence of every human being with their ability to judge has the same value.

We can question each detailed norm, created by people, in its specific material content without questioning the validity of human ability to create norms. But not the other way around. We cannot question the validity of human ability and right to create norms (which means the validity of the idea of the dignity of every human being and their will) without questioning the validity of every single cultural norm.

## 5. CONCLUSION

Hans Wagner, using the tradition of German transcendental philosophy—its method, but also many of the fruits which stem from this method—gives us the transcendental justification of the idea of human dignity, which I propose to formulate in the following way: “In order to ground the validity of all human thinking and—at the same time—all products of human thinking, which one calls ‘culture,’ we have to acknowledge the validity of the idea of human dignity.”

One can treat all these analyses of Wagner—both the theoretical and the practical—simply as a continuation of Kant’s transcendental philosophy. In his ethics, inseparably related to epistemological and ontological analyses, Wagner makes explicit the material content (i.e. reference to the values) which is contained implicitly in Kant’s famous formal ethical imperative. This is a well-known gain of all epigones that they can see more precisely and in more detail what their past masters have seen.

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