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HUMAN FLOURISHING, HUMAN DIGNITY, AND HUMAN RIGHTS

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ABSTRACT. Rather than treating them as discrete and incommensurable ideas, we sketch some connections between human flourishing and human dignity, and link them to human rights. We contend that the metaphor of flourishing provides an illuminating aspirational framework for thinking about human development and obligations, and that the idea of human dignity is a critical element within that discussion. We conclude with some suggestions as to how these conceptions of human dignity and human flourishing might underpin and inform appeals to human rights.

I. INTRODUCTION

We outline some neglected connections between human flourishing and human dignity, and indicate several ways in which they might inform discussions of human rights. Human flourishing and human dignity have traditionally been associated with Aristotle and Kant respectively, and they have often been treated as parallel or exclusive options.[1] The present essay does not claim to be an exercise in Aristotelian or Kantian scholarship – or an attempt to trace Kantian themes in Aristotle or Aristotelian themes in Kant. Nevertheless, it is our view that, despite differences between the metaphors of human flourishing and dignity, they capture important complementary facets of human self-understanding that can also be usefully linked with discussions of human rights.

Our basic contention is that the idea of flourishing provides an illuminating aspirational framework for thinking about human development and obligations, and that human dignity is a valuable evaluative element within that discussion. We conclude by

[1] Though see Stephen Engstrom and Jennifer Whiting (eds.), *Aristotle, Kant, and the Stoics: Rethinking Happiness and Duty* (Cambridge, UK: Cambridge University Press, 1996).

suggesting that conceptions of human dignity and human flourishing can be argued to underpin and inform the employment of a third metaphor, that of human rights, thus linking three key notions in contemporary discussions in social philosophy.[2]

II. HUMAN FLOURISHING

The metaphor of human flourishing has ancient roots. The biblical writers often appeal to the growth, flourishing, and demise of plants in their characterization of the human life cycle, and there is an important telic dimension to Aristotle's ethics in which eudaimonia (variously translated as flourishing, well-being, self-fulfillment, or happiness[3]) is seen as the end (*telos*) of human life. Some modern writers have also given the idea of flourishing a central role in their ethical positions. Philippa Foot, for example, writes that the flourishing of plants, animals, and humans shares a logically similar structure and that despite their differences we can approach human flourishing via an examination of the flourishing of plants and animals.[4]

That said, there has been criticism of the usefulness of (or perhaps of certain ways of using) the flourishing metaphor. Gilbert Harman, for example, believes that any appeal to flourishing when constructing an ethic is doomed to an unhelpful relativism.[5] Differences in human tele will generate an incommensurable diversity of moral codes. For others, the appeal to flourishing runs the risk of an opposite moral hazard – the temptation of thinking that there is a single human telos to which each person ought to conform. Such critiques require that we inquire into the scope and ambitions of the metaphor.

Although there is a tendency in philosophical circles to associate the idea of human flourishing with Aristotle (i.e., eudaimonia),

[2] We use the term 'metaphor' somewhat loosely to characterize the employment of a term in a new context, one in which some, though not all, of its original implications can be transferred to the new one.

[3] 'Flourishing' is not of course a literal translation of *eudaimonia*, which has its origins in the idea of possession by a good spirit, but 'flourishing' provides a good English equivalent insofar as it accommodates Aristotelian teleology.

[4] Philippa Foot, *Natural Goodness* (New York: Oxford University Press, 2003). Foot attributes the contemporary revival of interest in flourishing to Elizabeth Anscombe, though John Stuart Mill's *On Liberty* makes generous use of the metaphor.

[5] Gilbert Harman, 'Human Flourishing, Ethics and Liberty', *Philosophy & Public Affairs* 12 (1983): 307–322.

parallel ideas are present in other moral theories, even though they may not make explicit use of the metaphor. Most moral theories work with a conception of human development – whether it is the possession and maintenance of physical and mental well-being, the opportunity for and nurture of rational and social capacities, the development of capabilities, or the formation and execution of diverse life plans.[6] These can be seen as ways of referring to human flourishing. If flourishing differs at all from these it is in its 'naturalism' and comprehensiveness, its acknowledgment of the empirical and suggestion of an overall judgment of achievement within the framework of a life cycle. The metaphor of flourishing gets us to focus on humans as developing, natural objects. Moreover, flourishing bespeaks normatively laden development and change – a qualitative assessment of the developmental passage and accomplishment of a living thing. The plant/animal/human that does not progress over its life cycle or that changes for the worse does not flourish but stagnates, withers, suffers, or weakens.

When we claim that a plant or animal flourishes (with flourishing construed here as both process and achievement) we are usually intending to assert that, overall, the plant/animal is coming or has come to exemplify the qualities that we associate with a good member of its kind. Here 'good' is not used in a moralistic sense but simply to indicate that, so far as the particular animal or plant is concerned, it is a good example of its kind.[7] (Whether it is good in some more general or moralistic sense is another matter.) We have a conception of what the plant or animal is capable of developing into and, insofar as it achieves that, it flourishes. Something of the same idea – though with important variations – might also be claimed of humans. A person who flourishes is, as a person, doing well – but in this case, as we shall see, the judgment has subjective as well as

[6] In connection with human rights, we find this most commonly brought out in the works of Amartya Sen and Martha Nussbaum. See, e.g., Amartya Sen, 'Capabilities and Well-Being', in *The Quality of Life,* ed. Martha C. Nussbaum Amartya Sen (New York: Oxford University Press, 1993), 30–53; and, most recently, Martha Nussbaum, *Creating Capabilities: The Human Development Approach* (Cambridge, MA: Belknap/Harvard University Press, 2011). Thomas Pogge suggests that the capabilities approach, despite its sympathies with the flourishing metaphor, is unsuited to giving all individuals equal consideration – a core part of our conception of dignity. We are unable to engage with Pogge's comprehensive critique of the capabilities approach, but note it here. See Thomas Pogge, 'Can the Capability Approach Be Justified?', *Philosophical Topics* 30, no. 2 (2002): 167–228. Our own account of flourishing offers a pathway to dignity.

[7] See G.H. von Wright, *The Varieties of Goodness* (Routledge & Kegan Paul, 1963).

objective components.[8] Moreover, as we will suggest, it has a moralistic dimension.

As noted above, this conception of flourishing is as much processual as substantive (though we do not wish these to be considered exclusive categories). It is not just about (in the case of plants) reaching a certain height, possessing leaves of a certain size and color, bearing ample flowers and fruit, and so on, but also about the actual processes of growth and development. The same might be said of human flourishing – the focus is on following a particular developmental trajectory as well as on acquiring this or that skill, knowledge, achieving a particular mental state and mode of being, and realizing a set of values.[9]

Nevertheless, the differences between humans and plants/animals are quite significant. The metaphor, though importantly suggestive, operates very differently in the context of human flourishing.

(1) Whereas the flourishing of a particular kind of plant or animal seems relatively uniform (albeit not in every respect – for a flourishing Norfolk Island pine will display more uniformity than a flourishing eucalypt), human flourishing is much more individualized – that is, diverse and multi-faceted. Human flourishing is not confined primarily to matters of physical development and reproduction, but embraces intentionality, experience, and culture. Whereas one person may flourish in an academic environment, another will flourish when her athletic capacities and interests are able to develop, and a third will flourish when musical talents are encouraged.

It is hazardous to identify a singular human telos, although this has often been attempted within the framework of comprehensive traditions, such as those associated with religion. Thus, the Westminster Shorter Catechism (1647) affirms that the end of man is 'to glorify God and enjoy Him forever'.[10] Whether or not such a claim can be sustained, it leaves out of account what is one of the most salient features of human existence, namely our capacity to set ends of our own, even ends that eschew all religious reference. Even

[8] Martha Nussbaum's ten 'capabilities' required by a life that can be said to be 'truly human' include both subjective as well as objective components. See *Creating Capabilities*, ch. 2.

[9] This trajectory may not be uniform. Humans, no less than plants, may not do well during certain phases of their life cycle.

[10] *Westminster Shorter Catechism*, Q. 1, A, available at: http://www.reformed.org/documents/index.html?mainframe=http://www.reformed.org/documents/WSC_frames.html.

supposing it to be true that only the righteous flourish, what that might consist in would be a matter of considerable variability and contention.[11]

Thus, one chief difference between humans and the plant/animal world will lie in the extent to which human flourishing is 'open', rather than 'closed' by genetic encoding – open, because human flourishing is as much a function of our varied and flexible social life as it is of natural predispositions. However, there is no simple either/or here – the person who flourishes in athletic pursuits rather than academic ones may be reflecting innate possibilities as well as learning opportunities.[12]

An individual who naturally excels as an athlete may not flourish if confined to academic studies, much as an academically inclined person may not flourish if deprived of the tools of scholarship. Furthermore, even within the same lifetime, what an individual needs to flourish may and will change. After they retire from competition, athletes will have to find alternative ways of flourishing, and after retirement a successful business person may seek to fulfill a lifelong passion for travel. One of the salient features of human life is the fact that, even as individuals, there may be more than one way as well as successive ways in which we can flourish.[13]

There may no static (let alone single) answer to the question, In what does human flourishing consist? J.S. Mill spoke of 'man as a progressive being',[14] and part of that progressiveness may lie in evolving forms (and conceptions of the ingredients) of human flourishing. What may have constituted the range of possibilities for flourishing for someone in the 4th century CE is unlikely to work for a person living in a twenty-first century industrialized society, and it may also be the case that members of different yet contemporaneous groups will have different ways of flourishing.

[11] Nevertheless, the ideas of self-transformation and the mode of its realization need not be seen as exclusive.

[12] This is no place to engage the nature-nurture controversy. It may be an insoluble one. See Susan Oyama, *The Ontogeny of Information: Developmental Systems and Evolution*, 2nd ed. (Durham, NC: Duke University Press, 2000).

[13] John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard/Belknap, 1971), but cf. Nussbaum, 'Non-Relative Virtues: An Aristotelian Approach', *in Quality of Life,* 242–269. In later parts of this paper, Nussbaum relaxes to what she terms a departure from the 'uninterpreted' experience detailed by Aristotle, to claim that though sensitive to contexts, there are certain experiences that are, in greater or lesser degree, common to all humans, and that these serve to frame human possibilities for flourishing.

[14] John Stuart Mill, *On Liberty*, ch. 1.

In other words, any conception of human flourishing must leave room for individual, social, and historical contingencies, even while recognizing that such flourishing may have some less contingent aspects and prerequisites. As embodied creatures, humans will require food, water, and shelter if they are to flourish. Health too will generally be an important component of human flourishing. In addition, given that our flourishing is achieved as part of a learning process in the society of others, it will ordinarily encompass a variety of social contacts, including those of a reasonably intimate kind. When Aristotle remarks that friendship is essential to a good life, he has in mind the satisfactions as well as benefits that most of us find in close relationships with others.[15]

(2) In his critique of the usefulness of the flourishing metaphor, Harman points to the relativism that would be engendered were individual flourishing to be used to ground ethical values. But the point of appeals to flourishing may not be to derive ethical values from the conditions for a particular individual's flourishing,[16] but to consider how the variety of ways in which humans flourish require that we incorporate certain internal and external constraints into human conduct. At one level that might seem relatively easy to do. For, insofar as human flourishing has a social dimension, it will be important that certain moral virtues are developed and norms observed: a social life congenial to human flourishing is conditional upon there being such norms. This requirement to include social norms and conventions as important to human flourishing is necessarily thin; it leaves open or at least undetermined the content of the virtues and norms to be developed. It may be the case that, apart from certain broad constraints required by our embodiment, and general intellectual and emotional needs, there will be significant room for disagreement about appropriate virtues to develop and norms to observe if we are to flourish. But more on this later.

Not all, however, find congenial this linking of an ethical dimension with the conditions for human flourishing. In 'The Happy Immoralist', Steven Cahn imagines the case of Fred – someone who has achieved his life goals of wealth and fame, along with a reputation for probity, even though the means by which he has achieved

[15] Aristotle, *Nicomachean Ethics*, bk. 8. Nussbaum's ten capabilities represent an attempt to spell out a stable framework within which contingencies will operate.

[16] See, e.g., Amartya Sen, *Development as Freedom* (New York: Oxford University Press, 1999).

these things have been treacherous and dishonest.[17] What is problematic about that? Sure, we may resent the fact that Fred is happy, and believe that he does not deserve it, but can we gainsay it? Does not the judgment that he is happy reflect a well-attested understanding of happiness as a state of mind in which we are satisfied with how things are going for us? That, no doubt, is true, although it also reflects a conception of happiness that, philosophically at least, does little of the work that happiness as eudaimonia is held to do as the end of human activity. For it comes close to collapsing happiness into pleasurableness, contentment, or even enjoyment, and overlooks the judgmental dimensions of happiness in which, in Aristotelian fashion, it is associated with well-being or flourishing. The Aristotelian point is not to conflate happiness with moral virtue, but to see the kind of flourishing to which humans might reasonably aspire as being closely connected with their maintaining certain moral commitments.[18] If Fred is to be more than Mill's 'pig satisfied', it will be because Fred's engagement with life and others is not predicated on deception and treachery and will include the human satisfactions associated with virtue, integrity, and transparency in relations.

Nevertheless, we might allow that there is no incoherence in some conception of a happy immoralist. Even the ancients were troubled at the extent to which the wicked were able to flourish. Their frequent response was to see ethical constraints as a condition for stable flourishing.[19] They thought it likely that the web of deception would unravel and the wicked would come to grief. In addition, the wicked were viewed as social free riders whose flourishing was contingent on the fact that others bore the costs of moral constraint. As free riding increased so would the risks of breakdown, not only for others but also for themselves.[20] In this respect 'happy

[17] Steven M. Cahn, 'The Happy Immoralist', *Journal of Social Philosophy* 35 (2004): 1.

[18] For the contrary view, see Christine Vitrano, 'The Subjectivity of Happiness', *Journal of Value Inquiry* 44 (2010): 47–54. Aristotle's account of human happiness is, however, similar to his account of human friendship. In each case, he attempts to work from what he sees as the best and most fully realized instance of what he is characterizing – whether eudaimonia or friendship. On this view, moral agency is seen as integral to one's personhood, and not simply a contingency.

[19] See, e.g., Psalm 37:35; 92.

[20] Reflection on the state of society might incline us to think that it could withstand a good deal of free riding. That may be so. In advanced liberal societies at least, we have instituted a range of mechanisms that allow multiple Freds to be 'accommodated'. We might regret this, and seek to minimize it, but the mechanisms by which we would be likely to achieve a significant reduction have their own destructive and illiberal consequences.

immoralists' are unlike the weeds in a well-watered garden, which are able to flourish even when they have overrun the garden. For weeds do not endanger social bonds that keep humans from Hobbesian strife but only the ability of other plants to realize their encoded capacities.[21]

The possibility of a case such as Fred's alerts us to two ambiguities in the idea of human flourishing. One is the ambiguity between merely subjective and objective assessments of flourishing. On the one hand, we would be loath to challenge Fred's belief that his life is going well because he feels it to be so. On the other, we see Fred as short-changing himself, confusing pleasure and enjoyment with positive self-assessment that includes a deeper sense of its worthwhileness and excellence. The other is an ambiguity between human flourishing conceived generally and human flourishing conceived individually. One might expect that collective human flourishing would be (at least partly) a function of the flourishing of individuals. And, to the extent that individual flourishing is socially implicated, that will almost certainly be the case. There may, however, be an uneasy relation or shifting tension between the two, as each can derogate from the other.

(3) A further analogy between human flourishing and that of plants/animals can be located in their sharing of a life cycle. The trajectory of human life is ordinarily seen as one of dependency, growth, progression, maturity, peaking, and then of decline.[22] Yet here, too, there are differences. Although the biblical writers sometimes compare the human lifecycle with that of grass, which springs up, flowers and withers, we may be reluctant to confine human peaking to, say, a short period between ages 25 and 35. Just as oaks may flourish for many years without declining, so humans may have an extended period of flourishing. Human flourishing, moreover, may accommodate or adapt to changes in circumstances and abilities. Fortunate the person who lives long and well and dies without losing her ability to flourish!

The flourishing of oaks should not be thought of in overly narrow evolutionary terms. An oak that has concluded a reproductive cycle may continue to flourish for many years. Reproduction may be an

[21] Ecosystems, however, may be a bit more sensitive to the unregulated flourishing of exotics.

[22] Cf. William Shakespeare's 'seven ages of man', *As You Like It*, II, vii. 139–166.

element in its telos, but we do not narrowly restrict it to this. And that is also true of humans. Although reproduction (along with nurturing the next generation) may be an important element within broadly human tele, individual humans are less confined to a reproductive telos. Even if reproduction and nurture are commonly considered important options for humans, their rich capacities for reflective and responsive practical activities give their flourishing a far wider range of possibilities.[23] Because human flourishing is a process as well as an end, it is best perhaps to think of that end in processual terms.

It is the fact and kind of human flourishing that gives it an important place in moral theory. The point is not that ethical constraints can be derived from a notion of individual flourishing in the way that Harman believes is hopelessly relativistic, but that the multiple ways in which humans can flourish and the social dimensions to that achievement require that we develop dispositions (virtuous habits) and social rules (moral rules and principles) that enable such diverse flourishing to occur. Central to such will be respectful and empathic attitudes, various rules concerning harm and offense to others, and so on. These will constitute a shared moral minimum.[24] But as progressive beings in the Millian sense we might hope for more – open-mindedness, kindness, and a broad sense of social justice, for starters, and maybe more general habits such as curiosity, creativity, industriousness, discretion, and truthfulness. The point here is not to suggest a definitive list,[25] or a list to be exemplified by each individual, but rather to set the development of social attitudes and rules, including those of a more strictly moral kind, into the context of an evolving understanding of the diverse ways in which humans may flourish.

What, in sum, is accomplished by the appeal to human flourishing? Although it is a horticultural metaphor, it is not an alien or unhelpful one. Humans, like plants, are part of a natural bio-order in which

[23] Because human flourishing is so multifaceted and self-determined, we might sometimes speak of people flourishing even if certain of the factors that we usually associate with human flourishing are not present. People may treat their deleterious conditions as opportunities rather than disabilities. In this respect, those who age may also continue to flourish. Those who flourish in conditions of adversity are often objects of special admiration. Alternatively, some may engage in tradeoffs of the conditions for flourishing; thus a scholar may sacrifice physical robustness for additional opportunities to engage in scholarly pursuits.

[24] This view has been defended, in much stronger naturalistic terms than those we use here, in Philip Kitcher, *The Ethical Project* (Cambridge, MA: Harvard University Press, 2011).

[25] Cf. Nussbaum, 'Non-Relative Virtues'.

what is good for us qua humans can be explored as a quasi-empirical question. Much like plants we have a normatively construed life cycle that can provide a framework for questions about what would contribute to or detract from our flourishing. Unlike plants, however, that cycle is centrally construed in social categories and generally realized within a framework of moral understanding. Also unlike plants, we cannot read off from our humanity exactly what it is that will constitute or even achieve our flourishing – either for humans in general or for particular individuals. Nevertheless, the metaphor provides us with a framework for our self-understanding and for conceiving of ways in which we can give direction to the processes that are constitutive of our character as living organisms. Although, like plants, we are part of the natural order, unlike plants our capacity for self-determination and involvement in multiple patterns of interpersonal relations provides us with many options for flourishing.

Although the capacity of human beings for a form of flourishing – that is, for their realization of their good as humans – is usefully explored via this horticultural metaphor, the metaphor does not itself establish what it is about human flourishing that makes it worth pursuing or valuable to pursue. Nevertheless, some of the features that an exploration of human flourishing is likely to uncover will go some way toward showing what it is that makes human goodness the worthwhile thing it is. In an important way that is captured by the second metaphor, which focuses on the dignity of human life – according humans a certain status, which then justifies their treatment in certain ways. Such treatment is likely to be integral to their flourishing.

III. HUMAN DIGNITY

Over the last several decades, especially following the promulgation of international documents by the United Nations and other bodies, appeals to human dignity have become ubiquitous – so prevalent that, like the assertions of human rights with which such appeals are often associated, they have been brought into some sort of disrepute.[26] Such appeals are, admittedly, more often invoked than

[26] Ruth Macklin has written that 'Dignity is a Useless Concept', *British Medical Journal* 327 (2003): 1419–1420, a claim that is intensified in Stephen Pinker, 'The Stupidity of Dignity', *New Republic* 238, no. 9 (2008): 28–31. They were, however, anticipated by Arthur Schopenhauer, who spoke of it as devoid of all meaning. See *On the Basis of Morality*, trans. E.F.J. Payne (Indianapolis: Hackett, 1965), 100–101.

analyzed and defended. Nevertheless, even though the relevant analytic literature has been relatively sparse, we can probably do better than their detractors suggest.

Dignity's intellectual history is instructive:

(1) It has venerable origins in the signification of aristocratic rank – on the one hand, as the status dignity a person has by virtue of possessing (or being accorded) high rank and, on the other hand, as the comportment dignity[27] appropriate to someone who possesses such rank.[28] With dignitas went gravitas. On this traditional account, dignity was not something possessed by people in general. Indeed, were such dignity shared generally it would lose its distinctive and distinguishing character: if everybody was somebody then nobody would be anybody. Although our concern here is not with that kind of dignity but with what has come to be referred to generally as 'human dignity', a shared standing that people have qua humans or, perhaps, as human persons,[29] the broader notion has – like that of flourishing – deep roots in the earlier one.

The standing that dignity affords may be substantive or merely comparative. In the former case, some people possess dignity whereas others lack it. The aristocrat is a person of dignity whereas the 'common Man' is not. To have dignity is to be a dignitary. This is dignity as high (and not just higher) status. In its comparative sense, dignity is simply a matter of comparative social or other rank. That is, because one object possesses higher rank than another with which it is being compared, it is said to possess greater dignity. It might be the dignity of kingship as compared with that of the priesthood or the dignity of

[27] The term used by Doris Schroeder, 'Dignity: Two Riddles and Four Concepts', *Cambridge Quarterly of Healthcare Ethics* 17 (2008): 230–238.

[28] Various typologies of dignity have recently been proposed. Schroeder, for example, differentiates Kantian, aristocratic, comportment, and meritorious dignity (*ibid*). More recently Leslie Meltzer Henry has offered five conceptions of dignity – dignity as institutional status, equality, liberty, personal integrity, and collective virtue, 'The Jurisprudence of Dignity', *University of Pennsylvania Law Review* 160 (2011): 169–233. As Henry's Wittgensteinian account suggests, these represent overlapping rather than discrete accounts. We believe that our own discussion is sensitive to these nuances.

[29] Here we equivocate regarding whether dignity belongs to 'humans' or 'persons,' Or, to use a slightly different dichotomy, whether it belongs to 'humanity' or 'individuals'. Although the alternative characterizations are often used interchangeably, they need not be, and in some of the debates that have occurred the distinctions are deemed critical. As the last large paragraph of this section indicates, we are uncomfortable with these options.

philosophical inquiry compared with that of idle chitchat, or, as the learned and judicious Richard Hooker supposed, it may refer to the inferior natural dignity of stones when compared with that of plants.[30] We do not of course have to assume (as does Hooker) some sort of Aristotelian order of nature – that is, the idea that each kind has its own dignity – to give sense to the idea of dignity as comparative rank, though we do have to assume a rank ordering in which some members are accorded greater esteem (qua that kind of thing) than others.

As noted above, aristocratic dignity generally has two dimensions. The first picks out the honor due to the dignitary. The high status of those with dignity makes them appropriate objects of esteem and deference. The second dimension focuses on a certain social bearing (or comportment) that goes with being a person of dignity. Dignitaries carry – or are expected to carry – themselves in a certain way, that is, to be dignified, as befits their status. To act below the dignity of one's station is a grave matter. Thus, to use historical examples, those with high status – dignitaries – ought not to marry 'beneath' themselves, perform certain labors, or behave in what are viewed as unseemly ways.

The bearing or comportment that is expressed by or expected of someone who has aristocratic dignitarian status can in fact be shown independently of the latter's possession. Thus the poor may display dignity despite their poverty, by preserving a bearing and demeanor that does not highlight or show them to be crushed by their impoverished situation. The contemporary bioethical concern over 'death with dignity' reflects an interest in determining the conditions of one's dying. What is usually seen as undignifying about the end of life is the helplessness, lack of control, and dependency that is often associated with modern dying – say, being technologically sustained but feeling personally humiliated, loss of control over bodily functions, being left in an unsanitary state, or being subject to an existence in which the quantity of one's life is given priority over its quality. As we shall see, this dimension of dignity persists in its universalized form.

Construed as a way of bearing oneself, dignity can sometimes be seen not only as a form of comportment but as a virtue – that is, as a disposition to carry oneself as befits a human when circumstances may conspire to undermine the qualities that express one's humanity (i.e., what is constitutive of one's flourishing). These will include main-

[30] Richard Hooker, *Laws of Ecclesiastical Polity*, ed. R.W. Church (1611; Oxford: Clarendon, 1868), I. vi, 25.

taining composure in the face of adversity, calmness of spirit, self-control, confidence in one's capacities and worth, and so on. The person who grows old with dignity or who confronts the vicissitudes of life with dignity may be said to display dignity as a virtue.

(2) Although we generally associate the universalization of dignity with Kant, it has earlier origins in the Stoics and Renaissance Christianity.[31] In De Officiis (44 BCE), Cicero compares humans with animals and argues that humans in general have a particular dignity by virtue of their capacity for rational thought.[32] Whereas animals are focused on bodily satisfactions, humans are able to engage in forms of self-reflection that raise them above the level of animals. Indeed, for them to focus on sensual pleasure would be 'wholly unworthy' of their dignitas.[33] Within middle to late Christendom, especially after the renaissance of classical learning in the fourteenth century, Stoic ideas found acceptance within a broadly Christian framework. In De dignitate et excellentia hominis libri IV (c. 1452), Giannozzo Manetti sought to rescue humanity from the misery of its theological fallenness by emphasizing its dignity,[34] a work that was later immortalized in Giovanni Pico della Mirandola's (1463–1494) oration on the dignity of Man.[35] Pico located this generalized dignity in the human power of self-transformation, that is, in the capacity of humans to be whatever they wish to be: 'We have made you a creature neither of heaven nor of earth, neither mortal nor immortal, in order that you may, as the free and proud shaper of your own being, fashion yourself in the form you may prefer'.[36] Pico's celebration of human dignity was innovative in more than one way. It accorded powers to humans that many

[31] For overviews, see Izhak England, 'Human Dignity from Antiquity to Modern Israel's Constitutional Framework', *Cardozo Law Review* 21 (May 2000): 1903–1927; Charles Trinkhaus, 'Renaissance Idea of the Dignity of Man', *Dictionary of the History of Ideas: Studies of Selected Pivotal Ideas*, ed. Philip P. Wiener (NY: Charles Scribner's Sons, 1973–1974), vol. IV, 136–146, available at: http://etext.virginia.edu/cgi-local/DHI/dhiana.cgi?id=dv4-20; Richard C. Dales, 'A Medieval View of Human Dignity', *Journal of the History of Ideas* 38, no. 4 (October–December 1979): 557–572. More recently, Michael Rosen has provided a compact and provocative genealogy in *Dignity: Its History and Meaning* (Cambridge, MA: Harvard University Press, 2012).

[32] M. Tulli Ciceronius, *De Officiis*, ed. M. Winterbottom (New York: Oxford University Press, 1994).

[33] *Ibid*., I, 39.

[34] See Giannozzo Manetti, *De dignitate et excellentia hominis libri IV*; Book 4 trans. by Bernard Murchland in *Two Views of Man: Pope Innocent III* On the Misery of Man; *Giannozzo Manetti* On the Dignity of Man (New York: Frederick Ungar, 1966).

[35] Giovanni Pico della Mirandola, *De dominis dignitate oratio*, trans. as *Oration on the Dignity of Man*, by A. Robert Caponigri (Chicago: Gateway, 1956). Pico did not title this oration, which was published posthumously.

[36] *Ibid*., 7.

traditional theologians considered to have been radically lost when Adam and Eve rebelled against their Maker. These were powers possessed by humans *qua* humans, powers that set them apart from the rest of nature. Manetti and Pico transplanted[37] the older tradition in which dignitas was most closely associated with intra-human social rank by universalizing the standing and bearing associated with rank. This was a leveling up, not a leveling down.[38] The contrast now was not between the aristocrat and the common Man but between humans and animals in the order of nature. Although it focused on the transformative power of reason, its most distinctive feature was to universalize the idea of dignity. It also presaged certain liberal ideas, in which the good for Man was not viewed in singular terms.

The big question prompted by this universalization of dignity was, naturally: In what does such human dignity consist? It could not consist in some hereditary or bestowed social standing.[39] Instead it was connected in various ways with what distinctively separates humans from the rest of nature – with ties to but not limited by the human capacity for self-reflection and self-determination.

Kant's remarks on human dignity, though brief and gnomic, are nevertheless important. His main discussion is found in the Grundlegung/Groundwork, when he discusses the Second Formulation of the Categorical Imperative.[40] The latter requires that we treat humanity – whether embodied in ourselves or others – as an end and not simply as

[37] We say 'transplant' because, in many cases, including that of Kant, there was not so much a rejection of older traditions of rank-based dignity as the addition of a distinct kind of dignity, one attaching to all humans.

[38] There were, admittedly, those (e.g., Thomas Paine) who sought to replace the dignity of rank with the equal dignity of all, and several influential writers have spoken of this development as a 'leveling up' (e.g., James Q Whitman) or an 'upwards equalization of rank' (Jeremy Waldron). For the most part, though, Kant and others who wished to advocate a universal human dignity did not wish to abandon traditional forms of rank. Instead, contrary to tradition, they thought that by virtue of their humanity all possessed a dignity comparable to though different from that associated with traditional rank. See Thomas Paine, *The Rights of Man* (New York: Anchor, 1973), 320; James Q. Whitman, 'The Two Western Cultures of Privacy: Dignity versus Liberty', *Yale Law Journal* 113 (2004): 1151–1221; Jeremy Waldron 'Dignity and Rank', *Archives Européennes de Sociologie* 48 (2007): 201–237; also 'Cruel, Inhuman and Degrading Treatment: The Words Themselves', New York University School of Law, Public and Legal Theory Research Paper Series, Working Paper # 08-36 (November 2008), 36, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1278604.

[39] Within Lutheran theology, the two ideas are combined. Man is accorded an 'alien dignity', in which God bestows on all people an 'infinite worth'. This worth is constituted not by qualities such as rationality or normative capacity but by the distinctive relationship humans have with God – created in love, called in love, and redeemed in love. For an exposition of this idea, see Karen Lebacqz, 'Alien Dignity: The Legacy of Helmut Thielicke for Bioethics', in *Religion and Medical Ethics: Looking Back, Looking Forward* ed. Allen Verhey (Grand Rapids: Eerdmans, 1996), 44–60.

[40] Immanuel Kant, *Groundwork of the Metaphysic of Morals*, trans. Mary Gregor (Cambridge, UK: Cambridge University Press, 1998).

a means.[41] We should do this, Kant writes, because of the dignity that Man possesses within the kingdom of ends:

> In the kingdom of ends everything has a price or a dignity. What has a price can be replaced by something else as its equivalent; what… is raised above all price and therefore admits of no equivalent has a dignity…. Morality is the condition under which alone a rational being can be an end in itself, since only through this is it possible to be a lawgiving member in the kingdom of ends. Hence morality, and humanity insofar as it is capable of morality, is that which alone has dignity.[42]

Although Kant here makes morality the primary subject of dignity, he also writes that 'the dignity of man consists precisely in his capacity to make universal law, although only on condition of being himself also subject to the laws he makes'.[43]

This last observation provides an instructive understanding of universal human dignity, allowing that we may want to abstract it from some of the more complex elements of Kantian doctrine. For what Kant is saying here is that there are two dimensions to human dignity – the two dimensions that were part of the aristocratic account but which have often been separated in later discussion.

On the one hand, there is, as Kant puts it, the human capacity to make universal law – what he explicates in the First Formulation of the Categorical Imperative. Its underlying point is that human dignity does not consist primarily in some bare idea of rationality or freedom, however important those may ultimately be to his account. It is the capacity to make universal law, that is, our capacity to bind or obligate ourselves and others. Or, to put it a bit more generally, our dignity resides in our status as normative beings whose decisions are not to be resolved simply in terms of means-end determinations, but as judgments of appropriateness and inappropriateness. It is our standing as moral agents (especially), given to evaluating courses of action as a condition of determining which are to be pursued, that constitutes a critical element in our dignity. This gives a particular worth to what we do.

[41] On the interpretation of this greatly-discussed formulation, see, for example, Christine M. Korsgaard, *Creating the Kingdom of Ends* (Cambridge, UK: Cambridge University Press, 1996), esp. ch. 4, and, by contrast, Rosen, *Dignity*, esp. chs. I.iii and IV.vi–vii. Notably, in this formula, as well as in others, Kant allows that we have self-regarding as well as other-regarding duties.

[42] Kant, *Groundwork*, 42.

[43] Kant, *Groundwork*, Sect. II, Akad. 440.

On the other hand, Kant says that the capacity to make human universal law is constitutive of our human dignity only if those who exercise such capacity also subject themselves to the laws that they make. What Kant is adverting to is that there is more to human dignity than our capacity for certain kinds of decisional determinations. Such determinations must also be reflected in our own person. We must carry or comport ourselves in a certain way if we are to be creatures with dignity – as moral agents committed to the norms we articulate. Human dignity is not only a status; it has an expressive dimension.

These two aspects of dignity have often been sundered in subsequent discussion – to the point that dictionaries will often distinguish, as two distinct meanings of 'dignity', one that focuses on our capacities and the other that focuses on our bearing or comportment. The Oxford English Dictionary, for example, offers as its second usage of dignity: 'honourable or high estate, position, or estimation; honour; degree of estimation, rank', and as its fourth usage: 'nobility or befitting elevation of aspect, manner, or style; becoming or fit stateliness, gravity'.[44] Although treated as distinct and even separate, these two accounts belong together as two dimensions of a single account of human dignity.[45] If we recall the roots of our current conception of human dignity as a kind of social rank, we are presented with a person who not only had a certain status but was also expected to manifest it in certain forms of social behavior. There were not two kinds of dignity – dignity of status and dignity of bearing – but a single dignity that had two aspects. Understood as the status owed to humans by virtue of their expressed capacity to determine their actions by means of normative and especially moral considerations, dignity is linked to the notions of rationality and autonomy.[46] For it is as rational beings that we are able to make normative judgments and engage in moral decision making, and our autonomy consists in our

[44] *Oxford English Dictionary Online*, second edn., 1989; online version June 2012, available at: http://www.oed.com.ez.lib.jjay.cuny.edu/view/Entry/52653; accessed 01 September 2012.

[45] We do not mean to imply that they cannot be sundered – they can be and have been. But we suggest that there goes with the first usage an expectation of the second. For Kant, the willing of something as universal law obligates oneself as well as applying to others.

[46] In a more extensive discussion, we could draw various links to equality, given that universalized dignity is possessed by all humans. Some of the connections are noted in Henry, 'The Jurisprudence of Dignity', 207 n. 192.

freedom or self-governance construed as legislation for ourselves. Compromise our rationality and autonomy, and our normative capacity is threatened; our dignity is challenged.

Nevertheless, there is a certain primacy to the status aspect of dignity. Humans who conduct themselves as Millian pigs (or seek to enslave themselves) do not forfeit their dignity even though they fail to act as those who have it. Their capacity for normative determinations remains.

Kantian dignity is attributable to 'humanity'. But what about those who, by dint of their condition, are incapable of making such determinations? Does this account draw the boundaries too narrowly by excluding infants, those with profound intellectual disabilities, the senile, and so forth?[47] It may, though whether that should be seen as 'too narrow' is a matter of considerable contestation.

For those who are bothered that it is too narrow, different responses are available, though here we offer only the barest sketch of a possible line of argument. If we see individual human life as generally having a narrative trajectory from fetushood, infancy, adolescence, adulthood, and eventually declining powers, to death, we may wish to extend what is central to dignity to humans antecedent to their development of this capacity, and subsequent to the capacity they once had. And so we might see it as a matter of indignity that someone in a permanent vegetative state is simply kept alive by a respirator or that the body of someone who has died is ground up for fertilizer. Those who focus simply on what is in front of them might be said to fail to see humans as continuants, historical beings who possess not only a present life but manifest a life cycle. What we inter when we go to a funeral is John Jones, not just a body. True it is John Jones's body, but John Jones's body is not associated with him as John Jones's clothes might be. His body is integral to his identity, and we may wish to respect his body in a way that we deny his clothes. No doubt the issue of identity and maybe of morality is more problematic at the beginnings of human life; nevertheless, given a narrative view of personhood, we may

[47] Kant, it might be noted, limits dignity to humanity 'insofar as it is capable of morality' (*Groundwork*, 42).

speak of the untimeliness of an early demise, or of the destruction of a normatively construed potentiality.[48]

Another strategy – to look ahead – is to argue that those who do not qualify for dignity-related rights might nevertheless qualify for flourishing- or welfare-related rights.

IV. HUMAN FLOURISHING AND HUMAN DIGNITY

The interconnectedness of human flourishing and human dignity should be reasonably clear from the foregoing. In brief, insofar as human flourishing refers to the various ways in which humans can, over the course of their lives, develop and live well, and insofar as such flourishing is not to be construed atomistically but, for the most part, socially, it is likely to be achieved only if certain social norms are taken on board and observed. However, these social norms will not be constituted as alien to those for whom they are intended, but will embody, indeed reflect, their 'inner being' or character. In recognition of our sociality, they will be self-legislated, and it is in virtue of our capacity to determine the conditions of our sociality that our dignity consists. Not only will these conditions encompass certain rules or principles for the guidance of interpersonal conduct, but they will also involve development of the practical dispositions we refer to as virtues. That is, our human flourishing will manifest and be expressive of the dignity that we have as humans.[49]

Let us unpack the foregoing account more carefully. We can think of human flourishing in terms of living well, an activity and achievement that is likely to have both subjective as well as objective dimensions. As self-conscious beings, our living well will involve certain subjective judgments about how things have been for us, how they are going for us, and how we anticipate that they will

[48] See, e.g., John Kleinig, 'Persons, Lines and Shadows', *Ethics*, 100, no. 1 (October, 1989): 108–115; also, *Valuing Life* (Princeton, NJ: Princeton University Press, 1991), 194–207. Another possibility, in such cases, would be to grant them honorific status – to see humanity as a special status category.

[49] The kind of conceptual connection that exists between human flourishing and human dignity is not to be thought of in terms of logical necessity. There is a limited amount of that in social concepts. In the central or paradigm cases, those who flourish will also qualify as those who possess dignity in both of the aspects that we identified. But there will also be some Freds who display a form of flourishing that is (relatively) devoid of moral virtue and constraint. It is similar to Aristotle's distinction among forms of friendship – companion friends and instrumental friends share important features with character friends, which leads us to call them all friends, but the latter nevertheless lack certain important features of character friendship, which Aristotle considers to be the most 'real' type of friendship.

continue for us. As embodied beings, there are likely to be some objective conditions associated with being able to live well. Inter alia, these will include adequate food, health and health care, and access to shelter. As social beings, our living well will most commonly require access to educational and other opportunities, the friendship and support of others, the development of social dispositions and shared social norms, a relatively stable and predictable social environment, and so on.[50]

Although, as humans, we are constrained by our embodiment, reflective capacities, and social needs, we are not, as plants are, confined to one way of living well. Not only do we differ from each other in what may comprise our individual flourishing, but we may also see that flourishing as having multiple possibilities. No doubt we can be limited by luck or lack of resources or opportunities; nevertheless, it is part of our being self-reflecting, deliberating, and self-determining that we are often capable of developing our capacities in more than one direction. Given appropriate social conditions we may need to choose between becoming a circus juggler or a physician, between becoming an accountant or a novelist, or among all four. Sometimes the choices will be easy to make, at other times they will be difficult. Sometimes the options will be equally available, at other times one may be much more difficult to pursue. And then of course we may find some options effectively withheld or concealed from us that would have enabled us to flourish better.

Moreover, just because what we will come to be is so much a function of social learning – and therefore unlike plants which have their forms of flourishing genetically encoded – our human flourishing will be achieved only if there is an amenable social environment. No doubt plants need water and good environmental conditions if they are to flourish. But that is probably all they need. Humans need more – a social engagement that develops their capacities and through which they can learn how to advance themselves. Critical to that environment will be social norms and the

[50] The point is not that those who are deficient in some of the 'objective' conditions cannot flourish. The remarkable thing about humans is their ability to work around the 'objective' constraints under which they find themselves, perhaps even to the point of making such deficits the centerpiece of a life lived well. Thus, in some of the phenomenological literature, the 'lived body', with its needs and possibilities, is seen as a special opportunity for and site of human dignity. See, for example, Jennifer Bullington, 'Being Body: The Dignity of Human Embodiment', in *Dignity in Care for Older People*, ed. Lennart Nordenfeldt (Hoboken, NJ: Wiley Blackwell, 2009), ch 3.

acquisition of virtues. Not surprisingly, what these norms and virtues should be is a matter of ongoing dispute, even though some norms and virtues are likely to acquire much greater universality than others.[51]

One consequence of the fact that our well-being or flourishing has objective as well as subjective components is that not every possible life path will be appropriate. We may be able to choose between the juggler and physician as ways of flourishing. It is more problematic, however, to include among one's options the roles of hitman or conman. The social character of flourishing, and the universalization of human dignity, grounded in our status as normative, self-legislating beings, carry with them the implication that although the options open for our flourishing are indeterminate, they will be bounded not only by physical limitations (ceteris paribus, I cannot flourish underwater) but also by certain moral constraints (our flourishing generally needs to have regard to the possibilities of others' flourishing). Fred is not a model for human flourishing. He may get away with his wicked lifestyle, but he does so at significant human cost and at considerable risk. Not only is his own flourishing dependent on his being treated by others as someone with dignity, but unless he treats others with dignity, he jeopardizes his own flourishing. That is something most of us recognize, and is a reason why there is generally a coincidence between 'objective' social/moral norms and self-legislated ones.

It is important to stress again that the link we are proposing between flourishing and dignity is not one of logical necessity or sufficiency.[52] A human whose agency is respected by members of her community may not flourish—she may lack certain fundamental bases for flourishing, lack the motivation to develop in a flourishing manner, have unrealistic expectations for her own flourishing, or through dumb luck or physical catastrophe be denied her flourishing. Dignity, we want to claim, provides an important assurance toward securing flourishing. But it is not sufficient for flourishing. Conversely, having our dignity recognized is not absolutely essential to human flourishing. Nelson Mandela managed to flourish despite the indignity to which he was subjected. Examples of flourishing often include cases of flourishing through or despite adversity.

[51] We need also to consider the possibility that some virtues are specific to particular cultural configurations, or at least have their importance determined by particular cultural configurations.

[52] We are grateful to a reviewer for highlighting this ambiguity.

Nevertheless, the recognition of human dignity, understood not only as the expressed capacity to acknowledge the moral status of others, but also as a social environment in which moral norms and attitudes generally prevail, is an important element in human flourishing. True, the recognition of dignity does not exhaust the conditions of human flourishing; yet, without its recognition, the ability for humans to flourish tends to be extremely limited.

V. ADDENDUM ON HUMAN DIGNITY, HUMAN FLOURISHING, AND HUMAN RIGHTS

Although our primary purpose has been to establish a connection between human flourishing and human dignity, there is some merit in indicating how each of these might impact on another large discussion in moral, social, and political philosophy, the debate concerning human rights. The merit lies in the tendency in many writers to separate discussions of human flourishing from those of human rights. No doubt the connection between human dignity and human rights gets rather more ink. Nevertheless, we believe that linking both flourishing and dignity to discussions of human rights has some suggestive implications for debates about so-called negative and positive human rights, if not over the whole range of such rights at least at the level of basic rights.

Like appeals to flourishing and dignity, those to human rights draw on an earlier use, this one grounded in law. Centrally – though not exclusively – to have a legal right is to have a legally enforceable claim against another.[53] What distinguishes moral and, by implication, human rights is the moral standing certain claims have to be secured by means of law or other mechanisms of enforcement.

In linking human rights to human dignity, we take as our starting point a position that is articulated in numerous recent international documents. This is the view that human dignity is not simply another value – to be traded off against autonomy, utility, and the like – but possesses foundational significance. Human dignity, we suggest, grounds human rights. That is, it is by virtue of our status as beings with dignity that we possess and should be accorded what we

[53] There is some complexity here, classically articulated in Wesley N. Hohfeld, *Fundamental Legal Conceptions as Applied in Judicial Reasoning and Other Legal Essays* (New Haven: Yale University Press, 1919). It is however, what Hohfeld articulated as claim rights that provides a model for human rights. This is not to say that this is how human rights have evolved as a sociological fact, but rather to say that insofar as there is a broad conceptual analogue with human rights today, it is Hohfeld's.

denominate as basic human rights. In this, we also follow a similar line of argument to James Griffin in *On Human Rights,* though Griffin speaks of personhood *qua* normative agency rather than dignity.[54] In the Preamble to the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1987), it is affirmed that 'the equal and inalienable rights of all members of the human family… derive from the inherent dignity of the human person'.[55] A similar point is implicit in German Basic Law (1949), which opens with the claim that 'human dignity shall be inviolable' (Art. 1) and follows with the assertion that 'the German people therefore acknowledge inviolable and inalienable human rights as the basis of every community' (Art. 2).[56]

How may we account for its foundational role? Or might it be – as Jeremy Waldron worries – that such international statements are no more than pious rhetoric?[57] The latter is certainly possible, though we believe that once we grasp the central connection between dignity and the capacity for and commitment to determining the course of our lives by means of moral considerations, the reasonableness of thinking of dignity as having a foundational character becomes plausible.

Humans are rights-possessing creatures – that is, we are entitled to make enforceable claims on others by virtue of our normative capacity.[58] These rights stake out assertable moral claims that, where possible, we may enforce or have enforced on our behalf. By virtue of what do we have such strong claims? We suggest that, at their

[54] See James Griffin, *On Human Rights* (Oxford: Oxford University Press, 2008), esp. chs. 3 and 4. Griffin indicates that his own account is an attempt to give a clearer understanding of "that exceedingly vague term 'human dignity'" (21).

[55] Available at http://www.unhchr.ch/html/menu3/b/h_cat39.htm. A similar ordering is found in the preamble to the UN International Covenant on Civil and Political Rights (1966):
'Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.
Recognizing that these rights derive from the inherent dignity of the human person…'.

[56] Grundgesetz, GG, available at http://www.iuscomp.org/gla/statutes/GG.htm. Additional references to – and discussion of – the internationalization of human dignity can be found in Man Yee Karen Lee, 'Universal Human Dignity: Some Reflections in the Asian Context', *Asian Journal of Comparative Law* 3, no. 1 (2008), DOI: 10.2202/1932-0205.1076, available at http://www.bepress.com/asjcl/vol3/iss1/art10.

[57] Waldron, 'Dignity and Rank', 235.

[58] We do not wish to claim that only humans possess (moral) rights, though our particular concern is with what it is about humans that gives them their 'human' rights. Because we view rights centrally as enforceable claims, there is certainly room for an extension of (moral) rights to animals, ecosystems, aesthetic objects, and humans who lack certain capacities.

most basic level, it is our normative capacity and commitment – our capacity and ability to guide our lives by means of considerations of appropriateness (and not mere efficacy) – that undergirds our status as rights bearers, and those who act in ways that would compromise, subvert, or destroy that capacity and ability do not merely impede but violate us, and thus render themselves subject to sanctions (such as those implicit in criminal law).[59]

We do not wish to insist that from the possession of dignity we can directly infer the catalogue of substantive rights that we morally ought to be accorded. To be sure, Waldron contemplates such an exercise by considering that the accoutrements of rank might provide the substance of our human rights. He mulls over the possibility that what those with rank were entitled to by virtue of their rank we might all be entitled to – the right to vote and a voice in public affairs, a right not to be struck, a right to have our wishes respected in the conduct of personal life, and so on.[60] The language of derivation in international documents might incline us in that direction. Here, however, we make only the more modest claim that whenever others jeopardize our capacity or ability to act as normatively determined beings they ipso facto jeopardize our rights. Even if their constraints on our normativity can be morally justified, justified they must be. The onus is on those who invade to make good what they do and, in the case of human rights, the moral bar is high.

True, this leaves unstated the preconditions for our normativity or normative agency – that is, which putative determinations of appropriateness we should recognize and seek to secure. It also provides no mechanism for mediating between or among competing claims in the event that they clash. But this does not mean that it is without substantive significance.[61] Rather than looking, as Waldron does, at the positive trappings of dignity as rank, it might be more appropriate to focus on the situation of those who lack dignity. In

[59] For a more detailed exploration of the connection between violations and hard treatment, see John Kleinig, 'The Hardness of Hard Treatment', in *Fundamentals of Sentencing Theory*, ed. Andrew Ashworth & Martin Wasik (Oxford: Clarendon Press, 1998), 273–298.

[60] Waldron, 'Dignity and Rank', 226 *et seq*.

[61] One of the problems with the proliferation of human rights-talk, as with invocations of human dignity, is that its currency has been devalued. See, for example, Griffin, *On Human Rights*, ch. 1. Griffin's concern, as with concerns about appeals to dignity, was also expressed much earlier, particularly in Jeremy Bentham's charge that talk about natural rights constituted 'nonsense upon stilts'. See Bentham, *Anarchical Fallacies* (written 1796), anthologized in Jeremy Waldron (ed.), *Nonsense upon Stilts: Bentham, Burke and Marx on the Rights of Man* (London: Methuen, 1987), 53.

The Metaphysical Elements of Justice, Kant observes that the head of state – the chief dignitary – possesses the right to distribute 'positions of dignity that are distinctions of rank not involving pay and that are based on honor alone; these distinctions of rank establish a superior class (entitled to command) and an inferior class (which although free and bound only by public law), is predestined to obey the former'.[62] We infer from this that those who are denied their dignity are made beholden to others – they are not authors of their obligations, they are obliged in the manner of those under the coercive authority of others. What our human dignity does is morally entitle us to treatment by others that acknowledges our status as normatively determining beings. And that recognition will underpin many of our basic rights claims.[63]

Being authors of our own obligations has subjective as well as objective aspects to it. Subjectively, it demands authenticity. That is, what we recognize as our obligations we recognize as ours in the sense that we do not merely adhere or conform to them, but own or commit to them as expressions of who and what we are. As Mill puts it in his paean to human 'progressiveness', 'to conform to custom as custom does not educate or develop in [a person] any of the qualities which are the distinctive endowment of a human being'.[64] Objectively, however, such authenticity is not open-ended but constrained by the fact of our sociality – social life being not only the condition for our becoming objects of dignity but also the arena for much of our flourishing and through which we express our dignity. If dignity provides the normative base for our standing as holders of human rights, it needs, if we are to develop a more substantive understanding of the rights to which we are entitled, to be set into the larger context of human flourishing. For it is as we understand the wide variety of ways in which we can flourish – as humans and possessors of dignity – that we can also appreciate something of the range of considerations that we might wish to advance as human rights.

Dignity may itself point us in the direction of certain liberty rights – rights to freedom from certain kinds of interference that

[62] Kant, *The Metaphysical Elements of Justice*, trans. John Ladd (Indianapolis: Bobbs-Merrill, 1965), Akad. 328.

[63] Griffin goes further than we do in linking his substitute for dignity (normative agency) to a catalogue of human rights.

[64] Mill, *On Liberty*, ch. 3.

affect our status as normative agents. But flourishing will demand rather more than this. If it is as normative decision makers that we can claim the deference of others, it is as those for whom flourishing constitutes a telos that we need to flesh out a more substantial range of rights. That is, we may wish to claim certain basic positive as well as negative human rights (not that the distinction is a hard and fast one). Negatively, we may have a right to non-interference and non-invasion. Positively we will have rights not only to the conditions of our subsistence but also to the conditions of our welfare – 'we' here extending ethically to all human beings.[65]

In practice – as libertarians have never tired of pointing out – there will be important practical and ethical constraints on what we can claim, as well as problems concerning the identification of those on whom the onus of securing or safeguarding such rights should rest. Against whom are such rights to be asserted – people generally, those who may be in a position to secure them, or governments? There are longstanding debates here that we acknowledge rather than seek to resolve. Suffice to say that for some people some human rights may constitute only ethical manifestos rather than claims against an easily identifiable securer or supplier of those rights. As with a drowning person, who has some claim to the assistance of all who may be able to aid, many may be held to some account until someone steps in. Education, food, and health care, as well as a range of social opportunities may be claimed as human rights if people are to develop and flourish as beings possessing dignity. In stable and economically capable polities, responsibility to ensure a level of welfare may devolve primarily on governments that are able to coordinate effort and marshal appropriate resources through taxation. Where a stable or economically capable polity is lacking, there may be some, if less easily securable moral claim on the assistance of local polities and others who are better off, though there may be no identifiable mechanism for enforcing such claims.

In addition, the general conditions for human flourishing may sometimes privilege certain interests over others. Given that flourishing has a significant social component – for we flourish not in isolation – some ownership rights may be qualified in order to enable a range of public goods that contribute to communal life and capacity –

[65] See, generally, Henry Shue, *Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy*, 2nd ed. (Princeton, NJ: Princeton University Press, 1996).

parks, schools, museums, roads, and so forth. A similar point may be made at the individual level. Although what we have called welfare and liberty rights may jockey for recognition within communities, they do not constitute completely discrete kinds of rights. The denial of dignity will impact on welfare, and the denial of welfare will impact on dignity. Casting the debate, as is often done, in terms of negative v. positive rights or libertarianism v. socialism is much too crude to capture the subtleties at the interface of our embodiment and sociality.

VI. CONCLUSION

As we noted earlier, our purposes here have been suggestive rather than definitive, seeking to forge some links that are not usually made, initially between the seemingly disparate ideas of human flourishing and human dignity, but then by showing how they offer some useful and complementary contributions to the discussion of human rights. To some extent, our project attempts to push back against the ethical fragmentation that is often bemoaned. Admittedly, to do this we have abstracted much of our discussion from its Aristotelian, Kantian, and natural law roots, but this has required no more than our capitalization on an evolutionary process that has been going on for a long time.

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