

Dignity v. Dignity

The Significance of the Notion of Human Dignity in the Human Rights Tradition and its use in Bioethics

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Dignity is a key-notion in both the *Charter of the United Nations* and the *Declaration of Human Rights*.

The *Charter of the United Nations* (1946) reaffirms "faith in fundamental human rights, in the dignity and the worth of the human person". The war had just ended, with its depressing and disillusioning experience of treason and organised crime against humanity. The best word the drafters could find to express what they wanted respected in each and every surviving individual was "dignity". They didn't say "autonomy". They had seen people freely vote for Hitler to flee unemployment and poverty. They had seen them collaborate in deporting millions of Jews, seen them kill and sterilise for eugenic purposes. They had collaborated themselves. Left to their own free will, people did not always behave rationally or well. This was one of the basic lessons learnt by the survivors.

The *Universal Declaration of Human Rights* (1948), expresses some of this experience when it testifies that "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." Probably a universal agreement on these terms had not been possible a century before. The Declaration is a unique achievement.

1. The Making of the Declaration

The Catholic philosopher-diplomat Jacques Maritain, who collaborated in the drafting-process of the *Declaration*, describes its goal as practical. It should express a practical agreement among peoples of different philosophical opinions. He says: "The present

state of division among minds does not permit of agreement on a common speculative ideology, nor on common explicit principles. But, on the other hand, when we are concerned with a basic practical ideology and basic principles of action implicitly recognized today, in a live, even if not formulated state, by the consciousness of free people, we find that they constitute *grosso modo* a sort of common denominator, a sort of unwritten common law, at the point where in practice the most widely separated theoretical ideologies and mental traditions converge"¹.

The elaboration of practical principles was a delicate and troublesome road. It could for example not be afforded to ask the drafters why they agreed, as the agreement would then fall apart: they had divergent, if not opposed theoretical reasons for agreeing on the practical principles. Some thought they were derived from natural law. Some considered natural law an oppressive and illusory mental device.

It may be doubted whether the distinction between practical and theoretical principles is in fact as clear cut as Maritain thought it was. But even if it is, the basic principle of human dignity is at the intersection between practical principles for action and a theoretical account of the nature of man. The principle of human dignity makes up for the disagreement over natural law. It was not only the last word of agreement between those who believed in natural law and those who didn't; It was also the first word of a new tradition, which was to make international law into a new ethics for everyone, if not into a new world religion.

In most of the human rights instruments conceived since the end of the War the notion of human dignity has figured in the preamble. But what does it mean?

2. The Meaning of Dignity

From the context of the human rights tradition itself, it is evident that it is taken to mean something which is incompatible with: Discrimination (*The Supplementary Convention on the Abolition of*

¹ In *Human Rights. Comments and Interpretations. A Symposium edited by UNESCO*, Allen Wingate, London and New York, 1949, p. 10

Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956); the *Declaration on the Granting of Independence to Colonial Countries and Peoples* (1960); *The UNESCO Convention against Discrimination in Education* (1960); the *United Nations Declaration on the Elimination of All Forms of Racial Discrimination* (1963); *The International Convention in the Elimination of All Forms of Racial Discrimination* (1966); *The International Convention on the Suppression and Punishment of the Crime of Apartheid* (1966/76) *Convention on the Elimination of All Forms of Discrimination Against Women* (1979))

Social injustice (*Covenant on Economic, Social and Cultural Rights* (1966/76))

Torture (*Declaration on Protection from Torture* (1975))

Abuse and exploitation (*Convention of the Rights of the Child* (1989)).

If we turn to other means of interpretation than the tradition itself, the *Oxford English Dictionary* defines "Dignity" as being:

1. The quality of being worthy or honourable
2. An honourable or high estate, position or estimation
3. An honourable office, rank or title or
4. Nobility or befitting elevation of aspect, manner or style.

The notion was used about high office in the Roman Empire, and later to designate a position in the hierarchy whether of the Church or of the nobility. 'Human dignity' as a standing phrase may be stemming from the levelling of social hierarchies coming with modern democracy. But the idea of human dignity is as old as can be remembered.

3. Elements of the History of the Notion of Dignity

The term the Latins translated from Greek by 'dignitas' was commonly ἀξία (axia). The translations of Aristotle reveals four different uses of this word².

It has to do with virtue, in for example the spending of money. Money can be spent with dignity, i.e. neither with greed nor with prodigality³.

It has to do with public recognition. Dignity is recognized or bestowed differently to different people in different societies⁴.

It is dependent on the State you live in, be it democratic, aristocratic, monarchic or anarchic.

It has to do also with justice. Justice is - in all of these very different societies - giving everyone according to his merit (dignitas), including oneself⁵. Friendship is to establish a permanent relationship built on reciprocity or justice. Even what Aristotle calls 'unequal' friendships rely on reciprocity of a proportional kind. The equality is preserved by giving and taking according to the dignity (merit) of the partners.⁶

"Dignitas" occurs also as a translation of the greek ἀξιομα (axioma). Thus an immediate, basic truth is called a 'dignity'⁷. It is curiously interesting that dignity here means something basic and self-evident.

To judge from Aristotle dignity is a basic principle, variable according to the legal system, which determines what you are entitled to get and what your duties are. It may be dependent on virtue. There are tendencies to recognise the humanity and dignity of every human being, but they remain tendencies.

To Hobbes dignity is power. The one who has dignity has managed to get his power recognized and respected. This he can do

² Aristoteles latinus, XXVI, 1 - 3, 4: *Ethica Nicomachea Translatio Grosseteste*. Textus recognitus, ed. by R.A. Gauthier, Brill - Desclee de Brouwer, Leiden - Bruxelles, 1973; Aristoteles Latinus IV, 2 et 3 ed. altera, *Analytica Posteriora. Translationes Iacobi, anonymi sive 'Ioannis', Gerardi et Recensio Guillelmi de Moerbeka*, ed. Laurentius Mino-Paluello et Bernardus G. Dod, Desclée de Brouwer, Bruges - Paris, 1968.

³ 23a18 ff

⁴ 31a24 ff. (?)

⁵ 25a20 - 29; 36b15

⁶ 58b30 ff., 59a35

⁷ 72a15-17

if he is useful, has good manners, pleasant appearance and is engaging in conversation⁸; dignity is the personal, charismatic aura needed by any politician to convince the world. This power can be traded like other goods, and it can be exchanged for different kinds of services. Its price depends on its use, and its use on the market. Hobbes thus has a way of setting a market-price for dignity.

"The value, or WORTH of a man, is as of all other things, his price; that is to say, so much as would be given for the use of his power: and therefore is not absolute; but a thing dependent on the need and judgement of another. An able conductor of soldiers, is of great price in time of war present, or imminent; but in peace not so. A learned and uncorrupt judge is much worth in time of peace; but not so much in war. And as in other things, so in men, not the seller, but the buyer determines the price."⁹

The dignity of a man is his public worth, that is the price set upon him by the commonwealth. This is paid with public office and honour.¹⁰

To Hobbes, man's dignity is tradable and variable according to circumstances. A man is worth his use. Neither Aristotle nor Hobbes believed in the absolute, inherent value, that the human rights tradition calls 'human dignity'. Yet they did believe that human beings had a special dignity - Aristotle thought it was reason, Hobbes that it was the quest for the eminent - but everybody did not possess this to the same degree.

The Stoics thought human dignity was due to rationality, and they thought it was universal. The Christians believed God accorded dignity to all human beings through creation and in the incarnation of Christ. The Rationalists - like Kant - thought human dignity resided in the capacity of morality open to everyone who cared. The contribution these strands of thought have made and continue to make to the life of the human rights tradition is very important.

But there have been at least two recurrent problems facing this universalism when it was put into practice in social life: sla-

⁸ Thomas Hobbes: *Leviathan*, Ed. by Richard Tuck, Cambridge University Press, Cambridge, 1991, chapter X, p. 62 - 69

⁹ Thomas Hobbes: *Leviathan*, X, 16

¹⁰ Thomas Hobbes: *Leviathan*, X, 18

very, often based on racism, and discrimination of women. On this background it may not be surprising that women writers engaged themselves against both slavery and sexual discrimination, precisely when the secular tradition for human rights was born.

Olympe de Gouges was very concerned about the turn the French Revolution took towards violence and repression. No peace-negotiations succeeded, and the respect for basic human dignity was largely threatened by it; especially that of women. This occasions her famous "Declaration of the Rights of Woman and of the (Woman) Citizen" which parallels the "Declaration of the Rights of Man and of the Citizen". It clearly illustrates that the Revolution was not prepared to deal with the question of women's dignity. It dares to copy:

"The law must be the expression of the general will; all citizens must contribute personally, or by their representatives, to its formation; it must be the same for all; and all men and women citizens equal before the law, must equally be admissible to all dignities, places and public offices, according to their capacities, and without any other distinction than that of their virtues and talents."¹¹

Women's admission to dignities and public office would take many more years, and de Gouges knew it. But this did not prevent her from stating her case: Women, on the same footing as men, should be allowed to proceed to 'dignities', i.e. to hold public office, if their virtues and talents allowed them to do so in a fitting manner, and if the Revolution was not going to betray its own ideals.

Olympe de Gouges had strong views not only on the Revolution and on women's place in it, but also on slavery. In one of her polemical plays against the black slavery of the Americas, the vice-roy and slave-owner is a goodhearted Frenchman, whose escaped Indian slave saves the life of his daughter¹². The daughter in her turn risks her life to rescue the slave from her father's punishment. The 'dignity' the colonial system has conferred upon the vice-roy

¹¹ Olympe de Gouges: *Œuvres*. Présentés par Benoit Groult, Coll. Mille et une Femmes, Mercure de France, Paris, 1986, p. 103. The passage corresponds to the article 6 of the *Declaration of the Rights of Man and of the Citizen*: "All citizens, being equal in her (the law's) view, must be admitted to all ranks (dignités), offices and public employment, according to their ability and without any other distinction than that of their virtues and talents."

¹² Olympe de Gouges in *Translating Slavery, Gender and Race in French Women's writing 1783 - 1823*, Ed. by Doris Y. Kadish and Françoise Massardier-Kenney, The Kent State University Press, Kent - London, 1994, p. 116

now obliges him to act against his conscience, to kill the slave and to uphold slavery. The dignity acquired with a public office renders the person vulnerable to the system that puts him up. Especially when what it asks of its dignitaries is not just. In the end the slave is saved by a higher kind of justice, according to which there exists a universal right, of men and women, free and slaves alike, to equal rank and equal privilege. This justice bestows equal dignity to all, and the laws of a country will ultimately have to respect this, de Gouges thinks.

Industrialisation made slavery within the Western World superfluous. It was transferred out of sight to other parts of the world, where only the slaves' many children threatened the masters. Democracy levelled society within the Western World, and the hierarchies based on dignity became less essential to its structure. Women's movements obtained political rights for women and a place for them in the labour market, while contraception, divorce and abortion entered the family to leave it at the end of this century practically optional. The two Wars revealed Europe to herself: she was capable of unbelievable evil, and not quite capable of combating it. Against herself she was helpless.

It is in and through these experiences that the human rights tradition takes form, and that 'dignity' is chosen rather than 'autonomy' as the basis for a cooperative effort and for a common political project.

In a meditation on these experiences Gabriel Marcel remains reluctant to systematize, because, as he says: "It is as if we had become more and more aware of the fact that reason may become sham and parody."¹³ He goes on:

"We cannot succeed in preserving the mysterious principle at the heart of human dignity unless we succeed in making explicit the properly sacral character peculiar to it, a quality which will appear all the more clearly when we consider the human being in his nudity and weakness - the human being as helpless as the child, the old man and the pauper. (...) This would amount to saying then, that dignity must be sought on the antipodes of pretension and rather on the side of weakness. (...) We can find in man's finitude the principle

¹³Gabriel Marcel: *The Existential Background of Human Dignity*, Harvard University Press, Cambridge Mass. 1963, p. 128 - 129

of his essential dignity"¹⁴.

Weakness and finitude, things we would rather be without, prove themselves the very complement to reason that inspires wisdom. The survivor knows that if dignity is to reside in anything inalienable from the human being, it must be found in the midst of his brokenness, and beyond reason poisoned by its own power. Marcel would be the last to think dignity could be replaced by autonomy in the human rights tradition. Yet he does complain the notion seems to have suffered devaluation. As if one could establish the reality by repeating the word endlessly.

4. Dignity v. Dignity

While some think the notion has lost meaning in ordinary language, it has become a slogan for the euthanasia movement. Already the dissenting opinion of Brennan, Marchal and Blackmun in the Nancy Cruzan case stated that: "Nancy Cruzan is entitled to chose to die with dignity"¹⁵ and Dr. Kevorkian described his suicide-machine as 'humane, dignified and painless'¹⁶. When Timothy Quill helped his patient Diane to die, he did so for the sake of her ability to maintain dignity¹⁷. The advance directive of the members of the *Association the Right to Die with Dignity* in France is entitled: 'Declaration of the will to die in dignity', while The Voluntary Euthanasia Society subtitled their *Your Ulitimate Choice: The right to die with dignity*'.

To all these people the notion of human dignity definitely has a meaning. A meaning, moreover, transcending autonomy, in as far as it involves other people's cooperation and understanding. There would be no need for propaganda if dignity was an entirely private matter, and could be obtained without the cooperation of anyone else. Neither for Aristotle or Hobbes, nor for the Stoics, the Christians or the Kantian rationalists, is human dignity reducible to autonomy. It is a social event, calling for recognition and responsibility of society; a matter of social standing. People who argue that

¹⁴ Gabriel Marcel: *The Existential Background of Human Dignity*, p. 128 - 36

¹⁵ Donald W. Cox: *Hemlock's cup, The Struggle for Death With Dignity*, Prometheus Books, Buffalo - New York, 1993, p. 80

¹⁶ Donald W. Cox: *Hemlock's cup, The Struggle for Death With Dignity*, p. 100

¹⁷ *The New England Journal of Medicine*, March 7, 1991, reproduced by Cox, p. 256

euthanasia is 'death with dignity' and those who argue that it is 'death without dignity' both argue that dignity has to be recognised by the community - whether it be in order to be killed or whether it be in order to suffer.

The problem of extending the human rights tradition to issues as these, is that the last word of agreement will be put under too much pressure. The risk is a loss of faith in the the tradition's adequacy. Whereas meaningless suffering is certainly against human dignity, it is difficult to believe that direct killing will ever be agreed to be a prerogative of human dignity whether in euthanasia or in abortion. The result may be a break-down of the tradition's unifying ability, and consequently of the moral cohesion of the international community. Whether postmodern tolerance will be able to make up for that is difficult to predict. It will no doubt seem less meaningful.

Yet in matters relating to artificial procreation and embryo research the standard of human dignity still provides a bottom-line. *The Bioethics Convention* from the Council of Europe prohibits production of human embryos for the sole purpose of research in the name of human dignity and UNESCO's *Universal Declaration on the Human Genome and Human Rights* prohibits cloning for the same reason.

This is a clever - perhaps even a good - strategy. Partly because if the documents positively admitted what they tacitly allow, the human rights tradition would be seriously compromised. Few people would find in it an expression of their thoughts about human dignity, and it is not expedient to give scandal. Moreover the cohesion of society is of paramount importance for peace.

The last mentioned document has called for governments and competent international organisations to identify practices against human dignity, such as reproductive cloning (Art. 11).

The human rights tradition identifies, as we saw, discrimination, social injustice, torture, exploitation and abuse as acts contrary to human dignity. Yet, I have no doubt that international organisations identifying abortions on eugenic grounds, sex-selection, enforced sterilizations of the poor, late abortions, destructive embryo experiments and anonymous parenthood as practices against human dignity, would find it difficult to be heard by UNE-

SCO. These practices have long been identified as against human dignity, by those who consider the unborn as human beings. They all represent - if the unborn child is a human being - acts contrary to human dignity. And yet they continue to be practised with the active support of national and international communities. Why is this so?

The only possible answer is, that the human rights tradition does not concern itself with unborn human beings. In Hobbes' terms the unborn are of too little use to the state to be of any value and consequently to count as having dignity. In Aristotle's terms our kind of state does not value the unborn. The recurring problem of racist slavery and sex discrimination has found a fearful competitor in discrimination against the unborn.

Human dignity may have become a battlefield of different convictions, which has disturbed our convictions and encouraged some study. But it is not an empty word. I used to think the notion could be abused and be made to mean something that it did not. But then I discovered it can only be abused by those who *think* they can and want to. The rest will say 'oh, well'..and think for themselves. This is not to say that no one will suffer from the lies about human dignity. Many will still die and much quality of life will be compromised by the awareness that we treat children thus. We don't seem to have learnt more from the War than the Israelis. But we can still be positively confident that the outcome of dignity v. dignity must be that dignity wins.