



Breakfast on the Hill

Pétit déjeuner sur la Colline

Whose dignity is it anyway?

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Whose dignity is it anyway?

I wish to thank the Canadian Federation for the Humanities and Social Sciences for their kind invitation to speak to you today about my research on a topic that bridges ethics, politics and the law. The issues I wish to raise are particularly challenging, and for a number of reasons.

Ethics often places demands on us that call into question customary or habitual ways of doing things, and may also seem to push us beyond what is practicable; many of us have the feeling that we are doing well indeed if we manage to meet our ethical responsibilities in our *own* lives. To respond to issues that have a national and international character is an even greater task. What we can practically do – about the environment, war, crises in the developing world, and so on – often seems to fall short of what actually needs to be done.

Ethics is also difficult to engage, I suspect, because of our recognition that there is disagreement – even if not widespread – on just about every moral issue. As a result, we have tended to privatize ethics (or our ‘comprehensive doctrines,’ as the late John Rawls would say^a), and have embraced a model of morality in which the principal standard is simply to avoid doing harm, where individual consent is a fundamental value, and where the preferred response to disagreement seems frequently to be simply toleration or political accommodation of differences. Our society has embraced this model to such a degree that, when some people take strong ethical stands, they may be accused of being at best do-gooders or at worst attempting to impose their values on others.

Yet another reason that engaging in ethics is challenging, especially in the public sphere, is that our ordinary ethical vocabulary – the ways in which we express our ethical views – seems to have less and less in common with those of others. The philosopher Alasdair MacIntyre has complained that our ethical language is filled with concepts and terms that come from many different traditions and which have meanings or associations which have changed, or of which we may not be fully aware, or that we do not share with others, or that simply do not fit coherently together – and this leads to confusions and dead ends in ethical discourse.^b One important example of such a concept, I would say, is that of dignity – and it is on this that I want to focus this morning. Part of the solution to such problems, especially when we wish to apply ethics to issues of law and politics, is that we have to be very clear and precise about the language and terms we use, and we have to be careful about what presuppositions we are making. So if we can keep our meanings and assumptions clear on this and on other key concepts, there is reason to expect that we should be able to see some important ways of engaging politics and the law from an ethical perspective.

In my remarks today, I want to talk about how the concept of dignity has been explored, and how we need to clarify it if it is to have an effective ethical – and legal and political – role. To begin with, I want to make a few brief comments about the place that dignity has in ethics, law, and politics. But then I want to raise a few problems, based on some recent political and legal cases, that lead some to think that the concept of dignity is not very useful at all. I follow this with a description of what I take dignity to mean, along with an explanation of the different ways in which we might

defend this principle. This requires challenging some of the assumptions, misunderstandings, and preconceptions about it in law and in contemporary ethics. But this will allow me to show, in conclusion, how the concept is helpful and useful in engaging in ethical or political or legal decision making.

I.

The concept of human dignity is a key notion in ethics, but it also has an important place in law and in politics.

We find the concept of dignity as a foundational principle of charters and declarations of human rights. We see it employed *explicitly* in the Universal Declaration of Human Rights, in the 3rd and 4th Geneva Conventions (on the treatment of prisoners of war)^c, in the proposed constitution of the European Community,^d and, *implicitly*, in the Canadian Charter of Rights and Freedoms. For example, the Preamble to the UDHR states 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 in the world,” and the first article of that Declaration affirms that “All human beings are born free and equal in dignity and rights.” There are references throughout that document to human dignity, and one might see all of the rights that the UDHR enumerates as aimed at preserving or ensuring this dignity.^e Indeed, according to the Canadian philosopher, Charles Taylor, dignity, understood as a characteristic that is possessed by all human persons equally, “is the only [concept of dignity] compatible with a democratic society.”^f

Dignity is also important because of its relation to our sense of who we are – of our identities as individuals but also as members of cultural or ethnic or religious groups. When our

character or our sexual orientation or our ethnic or cultural heritage is attacked, we see this as a personal attack, but particularly as an attack on our dignity, and perhaps even an attack on human dignity in general. We understand that others may challenge our actions, but not our identity or our dignity.

This notion of dignity is often appealed to in contentious situations. Perhaps this is to be expected. As Laval University professor Thomas De Koninck notes, it is when dignity is tested that we are most aware of it.^g Thus, when we look at the arguments defending the right to die (and hence calls for the legalization of euthanasia and physician-assisted suicide), we see that they often refer to a right to ‘die with dignity.’ But appeals to dignity arise in a number of other areas besides bioethics. The treatment of the prisoners in the Abu Ghraib prison in Baghdad was condemned for denying the basic dignity of the detainees. And in the recent case of (then) 12-year old Gurbaj Singh Multani, who was initially forbidden from bringing his kirpan to school, the claim was made that the schools had to “accommodate factors related to the unique capabilities and inherent worth *and dignity* of every individual, up to the point of undue hardship.”^h

Dignity, then, seems to be a key, if not a fundamental ethical notion, underlying many of the claims made on contemporary legal and political issues.

II.

But, one might ask, if dignity is such a broadly-accepted notion in ethics, law and politics, what is the problem? Why be concerned about it at all?

The principal reason is that an increasing number of critics find the concept puzzling and

perplexing.

Let's look again at the area of bioethics, and consider the (so-called) right to die and the appeal to 'death with dignity.' Here, an individual is claiming a right to do with her life as she chooses. Making that choice and having it respected seem to be basic human freedoms and part of her autonomy. To restrict a person's freedom here, it is argued, is to challenge her dignity as a rational being who can make informed decisions about her own life. But then consider cloning and commercial surrogate motherhood. Here, we find claims that individuals *do not* have a right to do with their lives or their bodies as they choose, and the reason given is that to use one's body in certain ways or under certain conditions is to violate human dignity.

Or again, when people speak of someone dying an "undignified death," who is to decide when continued life would be an affront to one's dignity? Determining whether and when one's life ceases to be one that has dignity, and to die in a way that allegedly preserves one's dignity, seem to be matters that only the individual involved can judge; surely – it is said – we alone are the only and ultimate judges of the quality and dignity of our lives. And yet, when we look at the wish of some women to engage in surrogate motherhood for profit, opponents (and the law) insist that it is *not* up to the individual woman to determine this. It is, rather, a matter for the community – and the law – to decide.

Thus, it looks like appeals to dignity are sometimes made so that we can exercise our autonomy, but are also sometimes made to limit it. And again, dignity is sometimes something that individuals can determine for themselves, but at other times is not. An observer might well ask, Whose dignity is it anyway?

What dignity is, and what it involves, then, seem to be very puzzling indeed.

But this is not the only area where the appeal to dignity seems to lead to problems or puzzles.

Consider the issue of the treatment of prisoners and the morality of torture. One objection to torture is that it degrades people, treats them as objects not persons, and robs them of their dignity – and that it is always wrong to do this. But is it in fact wrong if the stakes are high, and the chances of getting important information are good?ⁱ As American judge (now US Attorney General) Alberto Gonzales famously wrote, in a January 2002 memo to President George W. Bush, the necessity of combating terrorism "renders obsolete Geneva's [i.e., the Geneva convention's] strict limitations on questioning of enemy prisoners."^j

There seem to be other problems with the notion of human dignity as well. Some see it as simply too abstract and unverifiable – it can't be observed or empirically tested, and appeals to it have no weight independent of pre-existing social consensus or the law. More radically, some have argued that the notion of human dignity is an arbitrary cultural construction,^k that there is nothing inherent in people that justifies it, that it can and does vary from culture to culture, and that there is no requirement that it need always be respected. Finally, some consider that, because the term 'dignity' is vague, it is more likely to be a candidate for rhetoric or partisan sloganeering^l - generating more heat than light – than to be helpful in clarifying controversial issues.

It is, then, because appeals to dignity seem to be problematic or puzzling, or do not seem to give us any "clear and unambiguous guidance" in difficult or paradoxical situations, that some, like the British bioethicist, Ruth Macklin, have argued

that the concept of dignity is vague and useless.

^m And so they conclude that we simply ought to abandon the notion of dignity altogether in favour of other, presumably less ambiguous notions, such as ‘respect for persons,’ ‘autonomy,’ and ‘human rights.’ More and more people seem to be taking this advice. It is interesting to note that, despite the presence of this concept in many nursing ethics codes, in some of the standard textbooks in Canada on nursing ethics, dignity simply doesn’t come up for discussion.ⁿ

III.

So where does this leave us? Is dignity an important human value, or is it at best just a piece of rhetoric? It is because of the problems and puzzles noted above that I believe we need to look more clearly at the concept of dignity. To do this, I will begin by outlining what dignity is, and to whom it applies, Second, I want to comment on its source – i.e., where dignity is supposed to come from. And finally, I want to say something about what respect for dignity, clearly understood, requires of us.

IV.

What is dignity?^o The principal reason why the use of the term ‘dignity’ has been problematic, I would say, is that it has been used carelessly and confused with notions like ‘autonomy,’ ‘respect for one’s choices,’ and ‘pursuing one’s own good in one’s own way.’ To better understand what dignity is, I want to return to the contexts in which it has its origins – in philosophy, in religious traditions, and in some of the legal and political documents, such as the UDHR.

Dignity is, fundamentally, an ethical term used to indicate “the quality of being worthy or honourable.” But, so far as it has come to have a place in law, in constitutions, protocols, and so on, it is also something

that is specifically egalitarian and universal.

1. In general, dignity is a (moral) worth – a worth which human beings (perhaps uniquely) possess. This worth is a ‘trump,’ that is, it is a value that overrides many (if not all) other values. It may well be that it is efficient (a value), or socially less disruptive (another value), to impose dress codes in schools, and it would be a hardship (another value still) to define and make exceptions to the rules. But sometimes this hardship simply must be accepted if it is necessary to preserve the dignity of a person and of her ethnic identity, or the respect of her religious traditions.

2. It is the presence of dignity that distinguishes us from commodities or mere objects. Some philosophers have taken this as a sign of being an end in oneself. It is because of this that, even when we are punished, and even when the punishment is calibrated to be a deterrent to other potential offenders, this punishment ought not be degrading; there can be no “cruel and unusual treatment or punishment.”^p And similarly, to withhold certain constitutional or civil rights from prisoners would be violations of this dignity as well.

3. Dignity is rooted in what it is to be a human person. It is, in this sense, intrinsic and inherent. Thus, human persons are, by their nature, worthy of a special level of respect. When we say that dignity is intrinsic, we mean that it reflects what a person is essentially – that we are persons, not objects or things. We also have our own unique identities and individuality, and challenges to this are challenges to our dignity. And so we cannot be used just as instruments or means to some other end.

As an illustration of this notion of dignity as inherent, consider the following. We would find it fundamentally morally objectionable if someone

were to attempt to engineer a child who was somehow less free, or who, like a well-behaved dog, wanted to do nothing but make his parents happy and serve them as his masters. And the reason for this, I would say, is that this is, in a very deep sense, a violation of human dignity – and an offence not just against that child, but against humanity.⁹ (Yet we likely wouldn't find this as objectionable if we were to carry out such engineering on non-human animals or on plants – and probably not at all on machines.)

When I say that dignity is intrinsic, then, I mean simply that it depends on what human persons are, and is not based on what a particular individual may will, wish, or feel. Nor is it anything that someone or some society can give to another person. The *recognition* of one's dignity admittedly does depend on one's relations with other human beings – but that is another matter. Dignity, therefore, is something that someone has; strictly speaking, it can't be gained or lost – though, when one is being degraded, there is an effort to subvert the recognition of one's dignity. And it is because we are human persons that have dignity that others ought to recognize (or impart) dignity to us; as Hailer and Ritschl note: “any human being, however distorted, mentally retarded, or even fanaticised or convicted of crime, must needs be a recipient of such impartation.”^r

4. Dignity, then, is an objective characteristic. And while people can refuse to recognize a person's dignity, doing so is to refuse to recognize something that exists – and the fact that it exists is the basis for the demand that it ought to be respected, and ought not be denied. But this also means that we ourselves can't deny *our own* dignity; we have dignity, regardless of how or what we feel about

ourselves. (Being unaware of one's dignity does not mean that it does not exist.) Consider the example of the happy or contented slave; it has been estimated that there are some 25 million slaves in the world today, and not all of them are dissatisfied with their status.^s The fact that one accepts – perhaps even prefers – one's slavery, does not mean that there are no corresponding violations of dignity. Similarly, while a person at the end of his life may find himself isolated and abandoned, with a low estimation of quality of life, it does not follow that he has lost his dignity; rather, and more tragically, his dignity may simply be being ignored.

5. Dignity, in the sense that I describe it here, is something held universally and equally, and applies to all members of the human species as members of the human species.^t (This principle is similar to the value of 'equality before the law'.)

I will say more, in a moment, of how this dignity has been acknowledged in a wide range of cultures and traditions. But let me note here that some hold that dignity is possessed by all because it involves a relation to an ability held collectively – and that is “the ability of human kind to collectively understand compassion and collectively understand the need for justice to remedy unnecessary suffering. ... There is no need for an individual to have reason and free will to have dignity. The fact that all humans belong to the human collectivity gives them the inherent right to human dignity.”^u

And it is because dignity is a characteristic of humanity, and not just of this or that human individual, that an offense against one person's dignity is an offense against human dignity in general. And this is why violations of one's dignity should, and normally do, matter so much to each of us.

My reference to the universal and egalitarian character of human dignity reflects the view that dignity is not based on the possession, by each and every

human individual, “of certain functional capacities such as intelligence, abstract reason, language, creativity, ability to feel pain, empathy, awareness of personal biography over time, health, or beauty.”^v As William Cheshire notes, “functional capacities accrue with age and by degrees, many people possess them in slight degree, and others may lose some of them altogether.” If the possession by an individual of all such capacities were essential to the existence of dignity, then it would also be essential to one’s status as a person – and that would imply that someone could be more or less a person. And if this were so, “then we could instrumentalize and commodify human beings, deny them individuality, and treat them as products to be designed and manufactured” – and even disposed of – “according to another’s specifications.”^w Moreover, to abandon this claim of dignity as universal and egalitarian would be to undermine a claim for democracy.

Of course, characteristics like “appearance,” “self-consciousness,” “the capacity to express needs and desires,” or “the capacity to feel pain” – or some combination of them – can be signs of the presence of a being with dignity, but they are not decisive in establishing human dignity. (Young children are beings of dignity even though they are not autonomous in the sense above.) And so, in this respect, dignity should be seen as quite distinct from our contemporary conception of autonomy. For while the preceding characteristics are properties or characteristics of autonomous beings, they are not necessary for human dignity.

6. We can say, then, that dignity, as a value, is incommensurable – by which I mean, it is not a value that can be measured up against, or somehow changed or traded off for, some other value. This is reflected when we talk about the sacredness or the ‘infinite value,’ or the ‘pricelessness’ of human life. This may seem a strong claim but, again, to abandon it would be inconsistent with some of the characteristics noted earlier (2 and 3 especially), and would call into question whether dignity was an important value at all.

7. Dignity is, finally, the basis for human rights.^x As the French philosopher Jacques Maritain put it: “If the affirmation of the intrinsic value and dignity of man is nonsense, the affirmation of the natural rights of man is nonsense also.”^y When we say that “every human person has the right to make its own decisions with regard to its personal destiny”^z that neither the state nor social interests can override, the implication is that these rights do not draw their moral force or legitimacy from society, but from something about humanity itself – namely, dignity.

The preceding description of dignity attempts to summarize how it has been understood from its origins. Some of these features may be contested by those who appeal to dignity today – though when they are, we clearly need to know how and why. Generally, however, this is not done, and so it is easy to end up with confused, if not contradictory, statements of what dignity involves or requires.

In short, if we look at the contexts in which the notion of dignity has its origins, we see that the term means “the intrinsic moral worth of human beings, which is possessed as a collectivity by all human beings equally, regardless of the capacities and of the specific relations to others of any member of that collectivity.” This is why human beings are worthy of respect, why they have human rights, and why people struggle for the recognition of these rights. When an individual or a community merely uses, or degrades, or humiliates a person, they violate her dignity – which is something the person has whether she recognises it or not. But we also violate this dignity when we treat ourselves in certain ways; there are limits on what we can do to or with ourselves. Indeed, some would say that, by extension, we have to treat our bodies in certain ways as well. This isn’t simply a matter of what a person consents to.

And so respect for dignity is *not* just ‘respect for beings that are autonomous (in our standard contemporary sense) – as ‘free, independent, able to make a decision and act, self determined,’ and capable

“of deliberating or acting on the basis of his or her own plans.” Autonomy (in this sense) is a value, but it is not a fundamental value – and it is clear that it is not to be identified with dignity as I have described it above. For as we have seen, not only does autonomy presuppose the possession of certain functional properties and characteristics, but an overemphasis on it (in our popular sense) marginalizes other values besides dignity, such as beneficence and the common good. The German-American philosopher Herbert Marcuse was rather sceptical of the high value attributed to autonomy as such. In his 1969 *An Essay on Liberation*, he writes: “Self-determination, the autonomy of the individual, asserts itself in the right to race his automobile, to handle his power tools, to buy a gun, to communicate to mass audiences his opinion, no matter how ignorant, how aggressive, it may be.”^{aa} There are, then, a number of reasons why we should not overvalue autonomy, and certainly not confuse it with ‘dignity.’

Neither is dignity ‘reducible to, or the same as “a duty to respect the person”.’ We can have a duty to respect nature, but we can also use nature as a means to human purposes.

Nor is the recognition of dignity just the recognition of our human rights; if dignity disappears, human rights become simply a series of civil liberties granted or recognized by public authority – and there can be no protest that one’s human rights have been violated if the agency that grants them in the first place takes them away. When we say that there has been a violation of the human rights of the Burmese Nobel Laureate Aung San Suu Kyi, it is at the very least disingenuous to say that there has been no violation of her rights because such rights do not exist in that country in the first place.

V.

But what is the evidence for human dignity as something real, universal, and objective? There have been a number of different explanations of dignity, of how it is known to exist, and why it is something that ought to be recognized and respected. Perhaps no one

of the following explanations that have been given is necessary, but together they provide a broad consensus on the existence and importance of this concept.

1. The first reason is that dignity is recognized by cumulative human experience. It is no accident that one of the most influential documents declaring the fundamental place of dignity is the Universal Declaration of Human Rights of 1948. World War II exhibited, in a clear and unequivocal way, how far human beings can be degraded and mistreated – and so, in response, the UDHR declared and reminded us – it did not invent – that dignity was a fundamental moral principle

This “recognition” – and not inference – of the “inherent dignity... of all members of the human family,” referred to in the UDHR, is also found in Canadian jurisprudence. In one of the landmark cases on bioethics in Canada – *Rodriguez v. British Columbia (Attorney General)*^{ab} – both the justices speaking in the majority (La Forest, Sopinka, Gonthier, Iacobucci and Major) and those in the minority (Cory, Lamer, McLaughlin) recognised the importance of basic human dignity, its character as “one of the underlying principles upon which our society is based,” and its place within Section 7 of the Charter.^{ac}

2. Yet while we find dignity included in various twentieth-century charters and constitutions, it is far from a product of that century. Many scholars acknowledge that human dignity is something that has been long recognised in religious traditions, both east and west. In the religions of Judaism, Christianity, and Islam, the notion of human dignity is rooted in scriptural texts which record that men and women are special and unique creations of the divine.^{ad} But we can also find this notion in religions of Asia, where it underlies such values as compassion.^{ae}

3. But the acknowledgement of the existence of dignity is neither dependent on, nor presupposes the truth of, any religion. The Stoic philosophers of ancient Rome recognized the dignity of the human person – seeing it

as based on humanity's rational faculty, as employed in the pursuit of truth.^{af} Dignity was also a principle emphasized by the philosophers of the Enlightenment, and particularly by the German philosopher Immanuel Kant. According to Kant, morality requires not mindless obedience to the law, but our own recognition that the moral law is something that must be respected. In this sense, we are effectively 'self-legislators', not inventing law but giving the universal and objective moral law to ourselves. This is what Kant means by autonomy (in a sense quite distinct from the contemporary usage). It is the possession of autonomy in this specific sense that is, for Kant, the basis of the "dignity of human nature and of every rational nature" and of why human beings are worthy of respect.

4. More recently still, a number of philosophers see human dignity as implied by the very concept of what it is to be a human person. As we might expect, there are some variations in these accounts. Some focus on the fact that beings who are agents or actors can be morally praised or condemned, and it is this capacity to act morally – and immorally – that distinguishes us from all other things and, therefore, is the basis of our moral worth and dignity.^{ag} Some would add, as noted earlier, that nevertheless dignity is not contingent upon any functional capacities which vary in degree – for while evidence of personhood may be found in such capacities as abstract reasoning, language, a sense of moral obligation, and a desire to determine elements of our lives as we choose, personhood is not reducible to them.

There has also been a call for a "proper anthropology" in which to root human dignity which "goes beyond the said dignity of 'persons,' to reflect and embrace the worthiness of embodied human life." Such a life, as the American bioethicist Leon Kass writes, "will use our awareness of need, limitation, and mortality to craft a way of being that has engagement, depth, beauty, virtue and meaning – not despite our embodiment but because of it."^{ah} And still other accounts focus on the person as a being who is capable

of a certain 'narrative unity.'

5. Yet even though it has its formulations in philosophy and in religious traditions, some regard dignity as just a fundamental moral fact. Thomas De Koninck sees it as "une exigence antérieure à toute formulation philosophique" – as a requirement that is prior to all philosophical formulation – and one that has been expressed, in varying degrees, in cultural traditions from antiquity.^{ai} And in his 1977 book, *Taking Rights Seriously*, Ronald Dworkin points out that "anyone who professes to take rights seriously" must accept – though not in any clear foundational way – "the vague but powerful idea of human dignity."^{aj}

6. The recognition of and respect for dignity can also be seen in feminist ethics, and specifically in the ethics of care or of relationships that is central to many feminist views. Idris Baker, a worker in Palliative Medicine in Leicestershire, England, has written that respect for one's dignity "is a distinct component of what is meant by respect for persons, and it resonates strongly in the care of the dying." She notes: "When we toilet and wash dying people rather than leaving them dirty, when we moisten their mouths rather than leaving them dry, when we lay them out carefully after death, it is their dignity that we are respecting."^{ak} It is the recognition of something about others – something that enables us to bond with them, and that indicates they are the kinds of beings with whom we *can* enter into a relationship – even though we may not in fact do so – that lies at the basis of our relationships to them. And this 'something' is their dignity.

7. We may say, as well, that dignity is something that is *connaturally* recognized – which we become aware of directly through our experience of ourselves and others – though arguments for it can be confirmed through moral theory.^{al} We see the (fact of) the humanity of another being – of the other as human or as another self – and we recognize the moral claim that is made on us at the same time. This sense of dignity is also a characteristic of who we are, and distinguishes human beings from non-human animals.

The preceding list of explanations is not exhaustive, nor may any one of them even be necessary. But I list them here because this points to the large number of ways in which, throughout the lengthy history of the notion, people can explain the dignity that is recognised and attributed to human persons and the place of human dignity as a fundamental value.

VI.

Still, we might ask: But what does this principle or value of dignity require of us? How – and how far – must we respect it? Isn't 'dignity' so abstract that it can be of little practical use?

These are hard questions, but they are not unanswerable. Certainly seeing how a general principle of human dignity applies in a specific concrete case can be a challenge. Nevertheless, once we have arrived at a clear and more precise understanding of human dignity, we can articulate some more specific guidelines or principles.

First, because its existence does not depend on attitudes towards, or relations to, one another, dignity provides a moral basis for a critique of practices that attack one's identity or ignore one's claims to make certain decisions concerning one's personal destiny. But again, because it is objective, it also does not ultimately depend on our feelings about ourselves and about the character or quality of our lives; it is not simply up to each individual to determine when his or her dignity is involved or at stake. So dignity does not mean or depend on autonomy in today's sense of 'being free to do what we want,' even if what we want to do affects only ourselves.

Second, because dignity involves recognizing that persons are not simply commodities or things that can be made use of, we cannot legitimately use others as just a mere means to our own, or even society's, ends. There must be limits, as I have said, on the kinds of punishment, and certain rights cannot be overridden. Nor does the good of the ends to be achieved, by itself,

justify a violation of dignity. This holds against torture but also against terror. Yet neither can individuals use themselves as just means to their own ends. And when it comes to actions that may degrade an individual, it is irrelevant whether a person consents or not to be treated in these ways; a person cannot reasonably or morally consent to being treated in a way that violates his or her dignity.

Third, dignity is foundational, and other values derive their justification from it. The reason why others ought not lie to a person, or degrade or humiliate her, or ignore her when she is in serious need, and so on, is because to treat persons in these ways is ultimately to violate their dignity.

These may be difficult principles to follow, particularly where dignity is not recognized as a basic value, or where individualism and individual claims are well-established within a social or legal system. But this difficulty does not, by itself, count against the moral weight of the demands these claims place on us.

VII.

So, as this notion of dignity becomes clearer, we can better see how it can bear on legal, ethical, and political issues – and may allow us to solve some of the puzzles and problems signaled earlier. Dignity is also a moral imperative; the notion of dignity calls us out of our fixation on our private interests and wishes and wills. It is, I believe, because of the confusions in contemporary discourse concerning the notion of dignity and because of the introduction or infiltration of competing ethical values that we have ended up with so many puzzles in bioethics concerning how dignity is determined and, more importantly, what it entails.

Because of the importance of our individual and collective identity, we need to insist on the respect of our dignity and, by extension, human rights. As Charles Taylor points out, it is based on the recognition of equal dignity that we not only have an equality of basic rights and entitlements, but we also have a right to have our ethnic, cultural, and religious (and so on)

differences respected as well.

Second, the importance of dignity gives us an explanation for human value, for human rights, and for respecting others and ourselves – and, in fact, why we should recognise or value the autonomy, identity, or the consent of others. It also explains why and when we need show respect for diversity. (This does not mean deferring to, or refusing to challenge, difference, though it may mean that we should make attempts to understand and appreciate it.) And so we must treat others with respect; we must consider their dignity as human persons – even of enemy combatants and of those who seek to destroy us. (Newspaper columnists, talk shows, and bloggers notwithstanding, we cannot treat them however we feel, and do what we like with them.)

And, importantly, this emphasis on dignity supports our deeply held conviction that human beings cannot be owned and should not be used in certain ways – and that human life is, in a deep sense, priceless. This bears on views about our treatment of drug addiction, of prostitution or the sex trade, and even of those who suffer painful, terminal illness.

Understanding, and paying attention to, dignity will help us to address a wide range issues. Thus, when we are confronted with the issue of commercial surrogacy, for example, we have to ask whether, as embodied beings, the commodification of one's personhood and the use of one's body are consistent with our dignity. We also have to ask whether the claim to autonomy – in the sense of having a right to do as we will – is consistent with the dignity that is in us. And we might remember that, if dignity is put aside, and if our bodies can be used as commodities, then perhaps a case can be made for the expropriation and public ownership of reproductive capacities.

Again, when we are confronted with the claim of a right to die, we have to ask whether human dignity is consistent with the claim that we own our bodies, have an absolute right over them, and can do with them as we choose.

In the process, we will undoubtedly need to return to and look closely at our basic values, ask on what assumptions they depend, and see whether we have reason to accept these presuppositions or not.

Conclusion

Human dignity is, I have argued, a key notion in ethics, and it has a central role in legal and political discussion. It is a notion that has, however, been challenged – and understandably so, since we find a number of puzzling cases – i.e., where it has been appealed to in order to secure certain values, and yet also to restrict them. Given the lengthy history of our ethical discourse, it should be no surprise that such confusions occur, and so I have sketched out more clearly what dignity is, from where it draws its source, and what it requires of us.

Part of the problem with understanding the concept of dignity is its relation with the contemporary notion of autonomy, and I have insisted that dignity is more fundamental than autonomy, avoids the relativism that is sometimes contained within autonomy, and provides a context for and limits on it. Once this is clarified, we are led to some far from uncontroversial conclusions about what we have the right to do with others but also with ourselves.

The title of my talk today posed a question – Whose dignity is it anyway? The obvious answer is that human dignity is something that each of us has, and which ought to be respected. But, at the same time, it is not just up to us to determine what our dignity is and what it enables us to do. And when we fully appreciate this, then we will be able to see how far this concept can be of service in engaging in ethical, political or legal decision making.

NOTES

a John Rawls, *Political Liberalism*, expanded edition, second edition (New York: Columbia University Press, 2005), Part I, Lecture 2: "Reasonable Comprehensive Doctrines".

b Alasdair MacIntyre, *After Virtue: A Study in Moral Philosophy* (Notre Dame, IN: University of Notre Dame Press, 1984), pp. 6-18.

c See *The Geneva Convention relative to the Treatment of Prisoners of War*, adopted on 12 August 1949; entry into force 21 October 1950. Part I, Article 3 prohibits "at any time and in any place whatsoever" with respect to prisoners of war, any "Outrages upon personal dignity, in particular, humiliating and degrading treatment."

d Title I of the new (proposed) European constitution concerns "Dignity"; Article II-61 presents "Human dignity" as something "inviolable" that "must be respected and protected."

e We see similar statements in Articles 22 and 23 of the Universal Declaration (emphases mine):

Article 22: Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his **dignity** and the free development of his personality.

Article 23 (3): Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human **dignity**, and supplemented, if necessary, by other means of social protection.

f Charles Taylor, "The Politics of Recognition," in *Multiculturalism: A Critical Reader*, ed. David Theo Goldberg (Cambridge: Blackwell, 1994), pp. 75-106 at, p. 76.

g *La dignité humaine*, ed. T. De Koninck and G. Larochelle (Paris: PUF, 2005), p. 19.

h Factum of *The Canadian Human Rights Commission*, in the case of Balvir Singh Multani and Gurbaj Singh Multani v. Commission scolaire Marguerite-Bourgeoys and Attorney General of Quebec. See http://www.chrc-cddp.ca/legislation_policies/factum/multani_toc_tdm-en.asp (emphasis mine).

i Another argument against torture is that it is simply ineffective – that we can never be certain of the reliability of information extracted under torture, and that the practice has little effect on those most dedicated to a cause. But it is clear that sometimes, just as deception and entrapment are effective, so is torture.

j See Michael Isikoff, "Memos Reveal War Crimes Warnings," *Newsweek* (5/17/2004) <http://www.msnbc.msn.com/id/4999734/site/newsweek/>

k "There is no inherent property that confers dignity on a human being -- it is a social and cultural decision to confer this status" "Dignity reflects a moral status that moral agents assign to others. It is conferred on a human being by other human beings." See Arthur L Caplan, "Dignity is a social construct," *British Medical Journal* 2003; 327 (24 December 2003).

l Julie Mertus, "Mightier Than the Sword: The Bush Administration's Flagging Human Rights Rhetoric," in *Harvard International Review: Development and Modernization*, Vol. 25 (1) Spring 2003: "Equally troubling for those who support multilateral approaches to security and safeguarding justice is the document's replacement of human rights with the watery notion of 'human dignity.'... The White House's message is clear: the United States does not seek to champion human rights, but instead promotes an abstract substitute."

m According to Macklin, dignity means nothing "over and above respect for persons and their autonomy." See Ruth Macklin, "Dignity is a useless concept" *British Medical Journal*, 2003;327:1419-1420 (20 December)

n See, for example, *Concepts and Cases in Nursing Ethics*, ed. Anne Moorhouse & Michael Yeo (Peterborough, ON: Broadview Press, second edition 1996).

o For example, in "Ambiguities in the Concept of Menschenwürde" (in *Sanctity of Life and Human Dignity*, ed. K. Bayertz [Dordrecht: Kluwer, 1996], pp. 91-106), Dieter Birnbacher speaks of dignity in a strong and in a weak sense (pp 118-119). In the weak sense, anything that is human – such as a human corpse – has a certain measure of dignity. But it is the stronger sense – in which we speak of the property that applies to living human persons – that interests me here.

p Canadian Charter of Rights and Freedoms, section 12.

q This is the view of Ronald Cole-Turner, H. Parker Sharp Professor of Theology and Ethics at Pittsburgh Theological Seminary: "If we were to produce children that were somehow less free, or who, like a well-behaved dog, wanted to do nothing but make us happy and serve us as their masters. If we use technology to produce something like that, of course that's offensive. And if it helps to say it, I guess you could say that's a violation of human dignity." See Heather J. Ciras, "Customized kids may be the wave of the future," in *Science and Theology News* (June 9, 2005) www.stnews.org/Commentary-607.htm

r Hailer and Ritschl , p. 104.

s See Tom Masland, Rod Nordland, Melinda Liu, and Joseph Contreras, "Slavery," *Newsweek*, May 4, 1992, pp. 30-39.

t Martin Hailer and Dietrich Ritschl, "The General Notion of Human Dignity and the Specific Arguments in Medical Ethics," in *Sanctity of Life and Human Dignity*, ed. Bayertz : "the mere belonging of a human being to the species suffices to speak of a legitimate and necessary axiom that whoever deals with this being is to impart Human Dignity upon it... The validity of this understanding is limitless, i.e., any human being, however distorted, mentally retarded, or even fanaticised or convicted of crime, must needs be a recipient of such impartation." 104

u Errol P. Mendes, "Taking Equality Into The 21st Century: Establishing the Concept of Equal Human Dignity," *National Journal of Constitutional Law* (September 2000 12 NJCL) (<http://www.cdp-hrc.uottawa.ca/publicat/dignity.html>).

v William P Cheshire, Jr "Toward a Common Language of Human Dignity," *Ethics & Medicine*, Vol. 18(2), Summer 2002: pp. 7-10.

w Cheshire, Jr., "Toward a Common Language of Human Dignity."

x According to Hailer and Ritschl, "Human Rights are a juridical concretisation of the more general concept of Human Dignity. Human Dignity as a concept belongs to a pre-political or pre-judicial realm" (See "General Notion of Human Dignity," p. 93). Or, again, Paulina Taboada writes: "dignity objectively grounds rights, in the sense of an appropriate way of treating human persons (the *iustum*). "This *iustum* is not the dignity itself of the person but a consequence thereof for the sphere of acts directed at persons." (See Paulina Taboada, "Human Dignity and Fundamental Rights," *International Association Hospice and Palliative Care Monthly Newsletter*, June 2003, http://www.hospicecare.com/Ethics/monthlypiece/eithics2003/pom_june03.htm

y See Jacques Maritain, *Natural Law: Reflections on Theory and Practice*, ed. William Sweet (South Bend, IN: St Augustine's Press, 2003), p.

- z Maritain, *Natural Law*, p. 77.
- aa Marcuse, *An Essay on Liberation* (Boston: Beacon Press, 1969), ch. 1.
- ab *Rodriguez v. British Columbia (Attorney General) [1993] 3 S.C.R. 519.*
- ac The majority held that "Security of the person in s. 7 encompasses notions of personal autonomy (at least with respect to the right to make choices concerning one's own body), control over one's physical and psychological integrity which is free from state interference, and basic human dignity....The respect for human dignity, while one of the underlying principles upon which our society is based, is not a principle of fundamental justice within the meaning of s. 7."
- In his dissenting opinion, Justice Cory - substantially in agreement with the reasons given by Chief Justice Lamer and Justice McLachlin argued that section 241(b) of the Code infringes sections 7 and 15(1) of the Charter and is not justifiable under section 1. He writes: "Section 7 of the Charter, which grants Canadians a constitutional right to life, liberty and the security of the person, is a provision which *emphasizes the innate dignity of human existence*. Dying is an integral part of living and, as a part of life, is entitled to the protection of s. 7. It follows that the right to die with dignity should be as well protected as is any other aspect of the right to life. State prohibitions that would force a dreadful, painful death on a rational but incapacitated terminally ill patient are an affront to human dignity."
- ad See Genesis 1:26, 9:6. See also al-Hijr 15:29: "When I have fashioned him (in due proportion) and breathed into him of My spirit, fall ye down in obeisance unto him." See also Saad 38:72: "'So when I have fashioned him and breathed into him (his) soul created by Me'".
- ae Qianfan Zhang, "The Idea of Human Dignity in Classical Chinese Philosophy: A Reconstruction of Confucianism," <http://www.publiclaw.cn/article/Details.asp?NewsId=1281&Classid=&ClassName=>
- af See Cicero, *De officiis*, I. 30: "But in every investigation into the nature of duty, it is vitally necessary for us to remember always how vastly superior is man's nature to that of cattle and other animals: their only thought is for bodily satisfactions.... Man's mind on the contrary, is developed by study and reflection.... From this we may learn that sensual pleasure is wholly unworthy of the dignity of the human race." Cited in Charles Trinkaus, "Renaissance Idea of the Dignity of Man," in *The Dictionary of the History of Ideas: Studies of Selected Pivotal Ideas*, ed. Philip P. Wiener (New York: Charles Scribner's Sons, 1973-74), vol. 4, p. 136.
- ag Alan Gewirth, in "Dignity as the Basis of Rights" in *The Constitution of Rights; Human Dignity and American Values*, ed. M.J. Meyer and W.A. Parent (Ithaca & London: Cornell University Press, 1992), pp.10-28 at pp. 18-19.
- ah Leon Kass, *Life, Liberty, and the Defense of Dignity: The Challenge for Bioethics* (San Francisco: Encounter Books, 2002), p. 18.
- ai *La dignité humaine*, ed. De Koninck and Larochelle, p. 15
- aj *Taking Rights Seriously* (Cambridge, MA: Harvard University Press, 1977), p. 198.
- ak "Rapid Responses for Macklin," *British Medical Journal* 327 (7429) 1419-1420 www.bmj.com/cgi/eletters/327/7429/1419