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The Rise and Fall of Human Dignity

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The Rise and Fall of Human Dignity

*Nicholas Aroney**

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INTRODUCTION

Human dignity has a long history in philosophy, theology, politics, and jurisprudence.¹ Broadly speaking, there are important distinctions to be drawn between classical, patristic, medieval, reformed, liberal, and postmodern approaches to the concept. In the development of ideas about human dignity, three key questions have emerged. First, there is the question whether dignity is an attribute of certain privileged classes of human beings or an attribute of all human beings without distinction. Second, there is the question whether human dignity is necessarily associated with the possession or exhibition of certain virtues or qualities of character. Third, there is the question of the extent to which dignity is an attribute of human persons conceived as autonomous and atomized individuals or as persons embedded in an array of associations and communities.

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1. *See generally* DIGNITY: A HISTORY (Remy Debes ed., 2017).

This article will explore the implications of classical, patristic, medieval, reformed, liberal, and postmodern approaches for the concept of human dignity in respect of each of these three questions. It will do so by focusing on the views of an array of authors, including Marcus Tullius Cicero, Gregory of Nyssa, Leo the Great, Bernard of Clairvaux, Thomas Aquinas, Pico della Mirandola, Martin Luther, John Calvin, Johannes Althusius, Pope Paul VI, Immanuel Kant, and Friedrich Nietzsche. It will be argued that while the older classical conception of dignity understood it to be an attribute that distinguished some classes or groups of human beings from others, the idea was transformed under the influence of Stoic philosophy and especially Christian theology into an attribute possessed by all human beings by virtue of their created nature. In the patristic, medieval, and reformed perspectives, human dignity was understood to be an attribute of all human persons, conceived not as autonomous and atomized individuals, but as embedded in a great variety of associations and communities. As a consequence, dignity was considered to be something that can never be separated from one's moral responsibilities as a human being called upon to perform the duties associated with one's particular calling and station in life. In modern liberal conceptions of human dignity, however, the idea became disassociated from the qualities of one's character and from the associations and communities in which human beings are naturally embedded. Defining human dignity solely in terms of human freedom and autonomy has resulted in a hollowing, flattening and atomizing of human dignity, culminating in the postmodern thought of Friedrich Nietzsche in which human dignity is reduced to the "will to power," a condition in which "man in himself . . . possesses neither dignity, nor rights, nor duties."² This "rise and fall" of human dignity gives rise to the question whether it can survive the ongoing processes of hollowing, flattening, and atomizing that characterize late liberalism and post-modernity, and under what conditions it might be sustained.

2. Friedrich Wilhelm Nietzsche, *The Greek State – Preface* (1871), reprinted in *POLITICAL WRITINGS OF FRIEDRICH NIETZSCHE: AN EDITED ANTHOLOGY* 45 (Frank Cameron & Don Dombowsky eds., 2008).

I. CLASSICAL DIGNITY

In a study of ancient Greek attitudes to human worth and value as disclosed in the Homeric epics, especially the *Iliad* and the *Odyssey*, Patrice Rankine has observed:

Homeric Greeks engaged in ruthless war and acts of pillage, and at times mundanely bought and sold persons at a price, as slaves. . . . [N]owhere do the epics offer anything like explicit, formal criteria of human worth that could be aligned easily to our contemporary western notion of dignity. Homeric epics do not speak explicitly of an inherent or unearned moral status, which status all humans share equally, and which is supposed to ground fundamental human rights or protections.³

For these reasons Rankine argues that the most that might be said of the Homeric epics is that they describe a set of practices that “can be understood as precursors” to the later development of a formal concept of human dignity.⁴ In the *Iliad* and *Odyssey*, the *axios* (worth, value) of human beings varies: it is contingent and comparative, not intrinsic; and it is closely related to the prowess and fame of a mighty warrior like Hector or Achilles.⁵ For this reason, *axios* later became associated with a person’s rank or status in society and was used in a manner that resembled the term *dignitas* in classical Rome.⁶

In Latin usage, the concept of *dignitas* was closely associated with a person’s social standing and with the duties that particularly pertained to that status. In the prevailing Roman view, “[h]uman beings . . . do not have an automatic and inalienable dignity. Nature gives them a role to play, and they must strive to play that role.”⁷ Dignity therefore meant “worthiness,” the respect or honor due to

3. Patrice Rankine, *Dignity in Homer and Classical Greece*, in DIGNITY: A HISTORY, *supra* note 1, at 20.

4. *Id.*

5. *Id.* at 22–23. Rankine argues that the encounter between Priam and Achilles (*Iliad*, XXIV.477–84) discloses a certain regard for the common human dignity of the other. However, his argument downplays the special heroic status of both characters compared with the many other ‘lesser’ human beings in Homer’s narrative. While Achilles’ desecration of Hector’s body is portrayed as an extreme breach of propriety, this is because Hector is Troy’s preeminent warrior. As Alasdair MacIntyre has pointed out, the martial virtue of courage is the cardinal virtue in the Homeric epics. ALASDAIR MACINTYRE, *AFTER VIRTUE: A STUDY IN MORAL THEORY* 110 (3d ed. 2007).

6. Rankine, *supra* note 3, at 23–24.

7. Miriam Griffin, *Dignity in Roman and Stoic Thought*, in DIGNITY: A HISTORY, *supra* note 1, at 47, 55 (emphasis omitted).

someone on account of their office or rank.⁸ Moreover, dignity was an attribute that attached, not only to individuals in their particular duties and offices but also to entire groups and classes. As Miriam Griffin explains, “[t]he *dignitas* of a *gens* implie[d] [a] family’s superiority over other families,” just as “[t]he *dignitas* of the equestrian order implie[d] its superiority over the rest of the citizenry,” and “[t]he *dignitas* of the Roman people implie[d] its superiority over other peoples.”⁹ *Dignitas* was therefore an inherently comparative status. The treatment to which a person was entitled depended on that person’s social standing. Honors were distributed, freedoms conferred, and punishments executed in a manner that was proportionate to a person’s rank within society. Moreover, each person was expected to live up to that social status or lose the marks of respect that went with it. Human dignity was more about the privileges and duties associated with a particular position in society than it was about the rights inhering in all human beings.

There were, however, some exceptional Roman writers who came close to affirming a universal dignity possessed by all human beings. Marcus Tullius Cicero (106–43 BC), for example, considered that it was unworthy of the superior qualities of human nature (*dignam hominis praestantia*) for human beings to be controlled, like brute animals, by desires for sensual gratification.¹⁰ Cicero’s argument was premised on the qualities of excellence and dignity (*natura excellentia et dignitas*) which he attributed, it seems, to all human beings.¹¹ However, he also noted that some human beings are so controlled by their desires that they live like beasts, while others conceal their appetite for such pleasures so as to avoid the shame.¹² For Cicero, like Seneca, *dignitas* was thus still conceived as a “sliding scale of worthiness,”¹³ in which there ought to be a “proportion between persons and their dignities.”¹⁴ There were

8. Hubert Cancik, ‘Dignity of Man’ and ‘Persona’ in Stoic Anthropology: Some Remarks on Cicero, *De Officiis* I 105–107, in *THE CONCEPT OF HUMAN DIGNITY IN HUMAN RIGHTS DISCOURSE* 19 (David Kretzmer & Eckart Klein eds., 2002).

9. Griffin, *supra* note 7, at 50.

10. MARCUS TULLIUS CICERO, *DE OFFICIIS* [ON DUTIES], at IXXX.106, at 108–09 (Walter Miller trans., 1913).

11. But see Kyle Harper, *Christianity and the Roots of Human Dignity in Late Antiquity*, in *CHRISTIANITY AND FREEDOM* 127–28 (Timothy Shah & Allen Hertzke eds., 2016).

12. CICERO, *supra* note 10, IXXX.105, at 106–07.

13. Harper, *supra* note 11, at 129.

14. Harper, *supra* note 11, at 129.

special dignities, inhering in certain offices, which ought also to be recognized and preserved. Thus, it was the special office of the magistrate to represent the state, to uphold its honor and dignity, to enforce the law and to dispense to all their rights, remembering that this was committed to him as a sacred trust.¹⁵ For Cicero, the individual is situated within a system of many concentric circles consisting of families, kinship groups, neighborhoods, cities, nations, allies, and the human race as a whole (*totius complexu gentis humanae*).¹⁶ Although, on this view, there was an important sense in which every individual could be regarded as “a citizen of the whole universe, as it were of a single city,”¹⁷ Cicero’s concern was to emphasize the moral duties that attach to one’s place in the world, alongside the rights to which one is entitled. Within the Roman *imperium* many of the privileges of citizenship were, over time, being extended to formerly subject peoples, but only full Roman citizens have political rights.¹⁸

II. PATRISTIC DIGNITY

There was a sense in which Cicero’s conception of cosmopolitan citizenship remained abstracted from local political realities. His conception of humanity was universal in theory, but the conditions of his time, and his own views about citizenship, prevented its political realization.¹⁹ The principle of the universal dignity of all human beings could not be brought to bear on the particular civic identity of each person, for there was no *political* community which was understood to be intrinsically cosmopolitan.²⁰ John Milbank has argued that a universal yet concrete polity of this kind only came into being with the advent of the Church.²¹ In his account, the Church represented a kind of “alternative polity” (*ecclesia*) that was

15. CICERO, *supra* note 10, I.XXXIV.124, at 126–27.

16. MARCUS TULLIUS CICERO, DE FINIBUS BONORUM ET MALORUM [ON ENDS], at V.XXII.65, at 466–69 (H. Rackham trans., 1914); *see also* CICERO, *supra* note 10, I.XVI.50–I.XVII.55, at 52–59 & III.XVII.69, at 338–41.

17. MARCUS TULLIUS CICERO, DE LEGIBUS [ON THE LAWS], at I.XXIII.61, at 366–67 (Clinton W. Keyes trans., 1928).

18. Filippo Carlà-Uhink, *Alteram Loci Patriam, Aalteram Iuris: “Double Fatherlands” and the Role of Italy in Cicero’s Political Discourse*, in *CITIZENS IN THE GRAECO-ROMAN WORLD* 259 (Lucia Cecchet & Anna Busetto eds., 2017).

19. *See id.* at 266, 272–73, 278.

20. John Milbank, *Dignity Rather than Rights*, in *UNDERSTANDING HUMAN DIGNITY* 189, 198 (Christopher McCrudden ed., 2013).

21. *Id.* at 199.

both concrete and universal in the sense that its citizenship was open to all human beings without any distinction on the basis of nationality, language, status, or sex.

This did not mean that human dignity came to be conceived only as an abstract property possessed equally by all. The biblical teaching that all human beings are made in the image and likeness of God²² became a mainstay of Christian reflection on human nature, but this was framed within the doctrines of creation, fall, and redemption. Gregory of Nyssa (c. 335–95), in his treatise *On the Making of Man*, taught that human beings are created in the likeness of “the King of all,” and are therefore made to exercise beneficent rule over the creation: “clothed in virtue,” “decked with the crown of righteousness,” and bearing the “dignity of royalty” (τῆς βασιλείας ἀξιώματι).²³ This dignity, he taught, applies to “all mankind” for all “equally bear in themselves the Divine image.”²⁴ Indeed, everything has dignity by virtue of its creation by God, “from the angels in heaven . . . to the lowest earthly things.”²⁵ And yet, there is a “difference of dignity” as between men and animals indicated by the upright bearing in which human beings stand erect.²⁶ In human beings, the Divine image is in the human *nous*, the rational faculty that enables human beings to be self-determining creatures that possess the dignity of personhood.²⁷ This did not mean that dignity was the preserve only of the wise or learned. Gregory was very clear that the poor, no matter how abject their poverty, are worthy of the respect and dignity due to them as creatures bearing the *imago Dei*.²⁸ For “[w]e are all of the same stock, all brothers and sisters.”²⁹ As a consequence of the fall from the state of innocence, however, Gregory taught that the divine image has been distorted and can only be fully restored by being remade

22. *Genesis* 1:27.

23. GREGORY OF NYSSA, *On the Making of Man*, in 5 NICENE AND POST-NICENE FATHERS OF THE CHURCH, SECOND SERIES, at IV.1 (H.A. Wilson trans., Philip Schaff & Henry Wace eds., 1893).

24. *Id.* at XVI.16–17.

25. Bonnie Kent, *In the Image of God: Human Dignity after the Fall*, in DIGNITY: A HISTORY, *supra* note 1, at 78.

26. GREGORY OF NYSSA, *supra* note 23, VIII.1.

27. Vladimir Lossky, *The Theological Notion of the Human Person*, in IN THE IMAGE AND LIKENESS OF GOD 119–20 (1974).

28. GREGORY OF NYSSA, *On the Love of the Poor*, in WEALTH AND POVERTY IN EARLY CHRISTIANITY 71, 73 (Helen Rhee ed., 2017).

29. *Id.* at 74.

by the grace of God into the likeness of Christ. This restoration of the “grace of the image” intrinsically involves a restoration of the “dignity of rule” (τῆς ἀρχῆς ἀξία).³⁰ Thus, the work of Christ provides a double reason for human dignity, even for the most poor, for Christ has given himself for the sake of even the very poorest of His brethren, and they have, so to speak, “taken upon themselves” the person of their Savior.³¹

In the Latin usage of late antiquity, *dignitas* continued to be a term that could designate the status or standing of those who held specific stations in life, and it could also be used in respect of entire institutions, such as the Church itself. Consistent with this usage, Pope Leo I (c. 400–61) wrote of the dignity which God has given both to the churches and their priests,³² and recognized ranks of dignity among the priesthood, distinguishing, for example, the “grade of deacon” (*diaconi gradum*), the “honor of the presbytery” (*presbyterii honorem*), and the “the highest rank of the bishopric” (*episcopatus culmen ascendat*).³³ However, like Gregory of Nyssa, he also associated dignity with the creation of human beings in the image of God. For Leo, “our race attains its highest natural dignity” (*naturalem nostri generis dignitatem*) when the “form of the Divine goodness” is reflected in us.³⁴ Leo’s focus here was on the privileges available to all through the grace of God in Christ and the dignity that can be realized through partnership in the Divine nature.³⁵ At their creation, human beings possessed the “high dignity” of being created in the image of God in “goodness and righteousness.”³⁶ So, likewise, the “chosen and royal race” of those saved by God in Christ “must live up to the dignity of [their] regeneration.”³⁷ And to do this, the spirit must overcome the flesh,

30. GREGORY OF NYSSA, *supra* note 23, XXI.4, at 36.

31. GREGORY OF NYSSA, *supra* note 28, at 73.

32. LEO I, *Letter X*, in 12 NICENE AND POST-NICENE FATHERS OF THE CHRISTIAN CHURCH, at II, at 9 (Henry Wace & Philip Schaff eds., 1895).

33. LEO I, *Letter XII*, in *id.* III, at 13; *Sancti Leonis Magni Pontificis Epistolae*, reprinted in PATROLOGIA LATINA 581 (Jacques-Paul Migne ed., 1846).

34. LEO I, *Sermon XII*, in 12 NICENE AND POST-NICENE FATHERS OF THE CHRISTIAN CHURCH, *supra* note 32, I, at 121; *Sancti Leonis Magni Pontificis Romani Sermones*, reprinted in 54 PATROLOGIAE LATINAE 138 (Jacques-Paul Migne ed., 1881).

35. LEO I, *Sermon XXI*, in 12 NICENE AND POST-NICENE FATHERS OF THE CHRISTIAN CHURCH, *supra* note 32, II, at 129.

36. LEO I, *Sermon XXIV*, in *id.* II, at 135.

37. LEO I, *Sermon XXVI*, in *id.* III, at 138.

thereby upholding the “dignity of its rule” over the body.³⁸ As Leo put it in one of his sermons: “Awake, O man, and recognize the dignity of your nature. Recollect [you were] made in the image of God, which although it was corrupted in Adam, was yet re-fashioned in Christ.”³⁹ For Leo, human dignity derives from the dignity of God, an attribute possessed equally by the three persons of the Holy Trinity.⁴⁰ Human nature has a dignity that exceeds that of all the “heavenly creatures,” for it has been united with the Divine nature in the person of the Son of God and is therefore associated with the Eternal Father “on the throne with His glory.”⁴¹ All human beings share, in principle, in this “uplifting” of human nature through its union with God through the “Incarnation of the Word.”⁴²

III. MEDIEVAL DIGNITY

In medieval jurisprudence the term *dignitas* developed an increasingly technical meaning in which it designated a quality that attached to high offices such as king and duke, pope and bishop.⁴³ But while many medieval works discussed “the dignity of God or Christ, the angels, Christ’s followers, or kings, bishops, priests, and other people with special offices,” several important texts also expanded on the dignity that all human beings have because they are created in the Divine image.⁴⁴ In his treatise *On Loving God*, Bernard of Clairvaux (1090–1153) understood dignity, alongside knowledge and virtue, to be the first of the three attributes of our “higher nature,” the quality that distinguishes human beings from non-sentient animals.⁴⁵ Dignity, for Bernard, is intrinsically associated with free-will (*liberum arbitrium*), the attribute by which human beings excel all other earthly creatures and the reason why they have dominion over them. Knowledge involves a two-fold

38. LEO I, *Sermon XLII*, in *id.* II, at 156.

39. LEO I, *Sermon XXVII*, in *id.* VI, at 141; see also Kent, *supra* note 25.

40. LEO I, *Sermon LXXII*, in 12 NICENE AND POST-NICENE FATHERS OF THE CHRISTIAN CHURCH, *supra* note 32, V, at 185.

41. LEO I, *Sermon LXXIII*, in *id.* III, at 187.

42. LEO I, *Sermon LXXVII*, in *id.* V, at 193.

43. ERNST H. KANTOROWICZ, *THE KING’S TWO BODIES: A STUDY IN MEDIAEVAL POLITICAL THEOLOGY* 383–450 (1957).

44. Kent, *supra* note 25, at 73–74.

45. BERNARD OF CLAIRVAUX, *ON LOVING GOD*, ch. II, at 4 (n.d.), https://ccel.org/ccel/bernard/loving_god/loving_god (last visited Feb. 11, 2021).

capacity: to recognize the dignity possessed by all human beings and to understand that it is essentially a gift rather than an accomplishment. Virtue, in turn, is the quality that impels human beings to seek for and adhere to the Divine source and author of these good gifts. Bernard emphasized that all three qualities are of vital importance. Dignity, although a “peculiar eminence” naturally enjoyed by all human beings, is worthless without knowledge, and harmful without virtue.⁴⁶ When men lack wisdom, they are prone to two errors, he said. The first leads them captive to merely sensual things and makes them comparable to irrational beasts. The second causes them to glory in their dignity, forgetting that it is a gift given to them by God, thereby usurping the glory that is due to Him alone. For this reason, Bernard stressed the importance of adding virtue to dignity and knowledge. He put it this way:

Who is so impious as to attribute the peculiar eminence of humanity to any other except to Him who saith, in Genesis, ‘Let us make man in Our image, after Our likeness’? (Gen. 1.26). Who else could be the Bestower of wisdom, but He that teacheth man knowledge? (Ps. 94.10). Who else could bestow virtue except the Lord of virtue? Therefore even the infidel who knows not Christ but does at least know himself, is bound to love God for God’s own sake. He is unpardonable if he does not love the Lord his God with all his heart, and with all his soul, and with all his mind; for his own innate justice and common sense cry out from within that he is bound wholly to love God, from whom he has received all things.⁴⁷

Here Bernard gave expression to the prevailing medieval understanding of the *imago Dei* as involving both intellectual capacities and moral dispositions. All people have the inner knowledge that they are bound wholly to love God, but achieving this is difficult to the point of impossibility for any man to achieve “by his own strength” and through “the power of [his] free-will.”⁴⁸ The fall has disordered our natural dispositions and capacities, and they can only fully be restored by the grace of God.

Thomas Aquinas (1225–74) took these themes further. Like Bernard, he considered the image of God to consist in our creation

46. *Id.* at 5.

47. *Id.* at 5–6.

48. *Id.* at 5.

as intelligent beings endowed with free will and self-movement.⁴⁹ This capacity, on his view, is simultaneously a faculty of reason and a faculty of will that is properly directed towards truth, goodness and, ultimately, beatitude. Following Peter Lombard (1096-1160), he considered all human beings to be gifted with the “faculty of reason and will, through which good is chosen with grace assisting, or evil with grace desisting.”⁵⁰ This faculty is accordingly also “a power, progressively formed in us, to produce moral acts of excellence.”⁵¹ Bad choices are not fully acts of freedom, for they involve a kind of bondage to sensual cravings rather than decisions directed by reason and oriented to that which is truly good.

Many of the hundreds of Aquinas’s references to *dignitas* in his works reflect the diverse senses of the term derived from general classical and medieval usage.⁵² His most consequential discussion of the matter appeared, however, in his consideration of what it means to be a “person,” especially in relation to the Christian doctrines of the Trinity and the Incarnation.⁵³ Following Boethius, Aquinas defined “person” as an “individual substance of a rational nature.”⁵⁴ Noting that the term *persona* had been used to designate the theatrical portrayal of prominent city dignitaries, he argued it was therefore fitting to use the term to designate the divine persons of the Trinity. Observing that “subsistence in a rational nature” is a

49. As Servais Pinckaers points out, Aquinas’s discussion of the image of God was positioned at the pivotal point in the *Summa Theologiae* where he turned from theology to anthropology. See Servais Pinckaers, *Ethics and the Image of God*, in THE PINCKAERS READER: RENEWING THOMISTIC MORAL THEOLOGY 130, 132–33 (John Berkman & Craig Steven Titus eds., 2005); see also THOMAS AQUINAS, *SUMMA THEOLOGIAE*, II. Prologue, at 609 (Burns, Oates & Washbourne trans., 1947–48, Encyclopædia Britannica, Inc. 1990) (1485) (“Since, as Damascene states (*De Fide Orthod.* ii, 12), man is said to be made to God’s image, in so far as the image implies an intelligent being endowed with free will and self-movement, now that we have treated of the exemplar, that is, of God, and of those things which came forth from the power of God in accordance with His will, it remains for us to treat of His image, that is, man, inasmuch as he too is the principle of his actions, as having free will and control of his actions.”) [hereinafter *SUMMA THEOLOGIAE*]; THOMAS AQUINAS, *SUMMA THEOLOGIAE*, II. Prologue (Burns, Oates & Washbourne trans., 1947–48) (1485) [hereinafter *SUMMA THEOLOGIAE* (Burns, Oates & Washbourne trans.)].

50. Pinckaers, *supra* note 49, at 137 (quoting Peter Lombard, *SENTENTIARUM LIBRI QUATTUOR* 452 (1971)).

51. *Id.* at 138.

52. See Servais Pinckaers, *Aquinas on the Dignity of the Human Person*, in THE PINCKAERS READER: RENEWING THOMISTIC MORAL THEOLOGY, *supra* note 49, at 144, 146.

53. For a discussion of its earlier use, see Cardinal Joseph Ratzinger, *Concerning the Notion of Person in Theology*, 17 *COMMUNIO: INT’L CATHOLIC REV.* 439 (1990).

54. *SUMMA THEOLOGIAE* (Burns, Oates & Washbourne trans.), *supra* note 49, I.29.1, at 25.

status “of high dignity,” Aquinas considered that the same honor of personhood should be extended to every individual who possesses a rational nature.⁵⁵ As Servais Pinckaers has observed, this enabled Aquinas to continue to use the term *dignitas* to designate the high personages of medieval civil and ecclesiastical society, but also to use the term *persona* to designate every human being, since everyone possesses the dignity of human nature.⁵⁶ As a consequence, all human beings were considered to have *dignitas* in this basic sense, but they may become more dignified to the extent that they better come to resemble the divine personality.⁵⁷

According to Aquinas, it was due to both its dignity and its fallenness that human nature was a fitting candidate for union with the divine nature in the Incarnation.⁵⁸ The dignity of human nature consists in its rationality and its capacity to know and love God, whereas the fallenness of human nature consists in its defection from the Divine image in which it has been created. It followed for Aquinas that the union of human nature with the divine nature elevated it to an even higher dignity than could be secured if humanity were conceived merely in itself, let alone in its fallen state, without any relationship to God. Thus, Aquinas observed that one of the lessons of the Incarnation is “how great is man’s dignity, lest we should sully it by sin.”⁵⁹

In this way the whole point of human dignity was, for Aquinas, entirely moral and theological. As Pinckaers has pointed out, the result was a threefold conception: first, the basic and ineradicable dignity possessed by all human beings due to their rational capacity to know and love God; second, the inherent potential for growth and development in virtue through the course of a life lived under the influence of divine grace; and third, the perfect knowledge and love of God that may be secured in the heavenly beatitude, the ultimate human destiny.⁶⁰ In this theological context, while sin can never destroy the inherent dignity of the human person, it does diminish our natural inclinations to virtue, truth, and goodness, and therefore causes us to “fall away” from our

55. *Id.* I.29.3, at 33.

56. Pinckaers, *supra* note 52, at 151.

57. *Id.* at 152.

58. SUMMA THEOLOGIAE (Burns, Oates & Washbourne trans.), *supra* note 49, III.4.1, at 72.

59. SUMMA THEOLOGIAE, *supra* note 49, III.1.2, at 704; *see also* THOMAS AQUINAS, SUMMA CONTRA GENTILES, at IV.54 (Joseph Rickaby ed. & trans., 1905).

60. Pinckaers, *supra* note 52, at 158.

original created dignity, and to “fall into” the “slavish state of the beasts.”⁶¹ Sinful human beings are therefore deserving of punishment for their sins, not because they have become irrational animals in their essential nature, but because they have the high dignity of human nature and therefore possess the capacity to choose between good and evil. Given the extraordinary powers of human beings to use their rational capacities rightly or wrongly, Aquinas’s observation was blunt and to the point: “a bad man is worse than a beast, and is more harmful.”⁶²

A significant difference in tone, framing, and orientation characterizes the so-called *Oration on Human Dignity* written by the Italian Renaissance philosopher Pico della Mirandola (1463–94). For Pico, the dignity of man consists in his status as a “creature of indeterminate image” (*opus indiscretæ imaginis*).⁶³ This means that, unlike all other creatures, human beings determine their own natures according to their own free will, mimicking the creative freedom of God, fashioning themselves into whatever form they individually prefer.⁶⁴ The divine creation was thus central to Pico’s conception of human dignity, but he drew substantially not only on the account of the creation in the book of *Genesis* but on Plato’s *Symposium* and Pseudo-Dionysius the Areopagite’s *De mystica theologia*.⁶⁵ Man is a creature who is “permitted to obtain what he desires and to be what he wills.”⁶⁶ What he ought to pursue is the highest “dignity and glory” of the angelic beings,⁶⁷ first by curbing the passions and cleansing the soul of ignorance and vice, and then by imbuing the purified soul with the light of natural philosophy, so that it may be ready to be perfected with the knowledge of things Divine.⁶⁸ For man’s mystical calling is to realize the full potentiality of his nature through moral transformation, intellectual study, and final perfection through identification with the Divine, a state of

61. SUMMA THEOLOGIAE (Burns, Oates & Washbourne trans.), *supra* note 49, II.II.64.2, at 199.

62. *Id.*; see J. BUDZISZEWSKI, COMPANION TO THE COMMENTARY ON THOMAS AQUINAS’S TREATISE ON LAW 160–66 (2014).

63. GIOVANNI PICO DELLA MIRANDOLA, ORATION ON THE DIGNITY OF MAN: A NEW TRANSLATION AND COMMENTARY 53 (Francesco Borghesi et al. eds. & trans., 2012).

64. *Id.* at 70; Francesco Borghesi, *Interpretations*, in *id.* at 53–54.

65. Francesco Borghesi & Massimo Riva, *Overview of the Text*, in *id.* 67–69.

66. *Id.* § 24, at 119.

67. *Id.* § 49, at 135.

68. *Id.* §§ 71–72, at 143.

being which transcends all images and representations.⁶⁹ However, human freedom is such that human beings may choose not to ascend to such heights, degenerating into a lower, brutish form of life.⁷⁰ The question is what path each human being will choose: a barely sentient life analogous to that of plants and animals, or the higher intellectual and contemplative life of angelic beings. Pico concludes: "Who, then, will not admire man?"⁷¹

IV. PROTESTANT DIGNITY

Protestant theologians and jurists built on patristic and medieval ideas about human nature and human dignity, but developed them in directions that reflected several distinctive doctrines of the Reformation.⁷² Martin Luther (1483–1546) in particular highlighted the egalitarian and liberating dimensions of the concept of human dignity. In his *Freedom of the Christian Man* (1520),⁷³ he taught that Christ imparts to every believer the dual dignities of kingship and priesthood, understood not in a corporeal sense of exercising temporal or coercive power, but in a spiritual sense of enabling Christians to live in freedom from fear of death or persecution, and in having direct and personal access to God in Christ.⁷⁴ The "honor and dignity" (*Ehre und Würde*), indeed "very high and honorable dignity" (*sehr hohe, ehrenvolle Würde*), attached to these offices,⁷⁵ makes every Christian simultaneously "the most free lord of all, and subject to none" and "the most dutiful servant of all, and subject to every one."⁷⁶ All Christians, regardless of their status in society, enjoy the same essential freedom in Christ. As John Witte has pointed out, this proposition could be taken to imply a far-

69. Francesco Borghesi, *Interpretations*, in *id.* 59–60.

70. *Id.* § 23, at 117.

71. *Id.* § 41, at 133.

72. See generally JOHN WITTE, *LAW AND PROTESTANTISM: THE LEGAL TEACHINGS OF THE LUTHERAN REFORMATION* (2002) (investigating the relationship between the law and religious doctrine in Luther's Germany); JOHN WITTE, *THE REFORMATION OF RIGHTS: LAW, RELIGION, AND HUMAN RIGHTS IN EARLY MODERN CALVINISM* (2007) [hereinafter WITTE, *REFORMATION OF RIGHTS*] (tracing Calvinism's influence on Western law in early modern Europe).

73. Martin Luther, *Concerning Christian Liberty*, in JOHN MURRAY, *FIRST PRINCIPLES OF THE REFORMATION* 104 (Henry Wace & C.A. Buckheim eds., 1885) (1520) [hereinafter Luther, *Concerning Christian Liberty*].

74. *Id.* at 115.

75. *Id.*; MARTIN LUTHER, *VON DER FREIHEIT EINES CHRISTENMENSCHEN* § 15 (Wittenberg, Johann Rhau-Grunenberg 1520), <http://digitale.bibliothek.uni-halle.de/urn:nbn:de:gbv:3:1-473882> (last visited Sept. 23, 2020).

76. Luther, *Concerning Christian Liberty*, *supra* note 73, at 104.

reaching egalitarianism, for it suggests that “a lowly Augustinian monk from an obscure German town [might] address His Holiness Leo X as if he were the pope’s equal.”⁷⁷ While Luther in his later writings resisted some of the more radical implications of this idea in his responses to the excesses of the Peasants’ Revolt (1525), as well as the antinomian experiments of some Anabaptist groups, these ideas made many Protestants fervent believers in the proposition that by faith the Christian believer is “free from all law, and in perfect freedom does gratuitously all that he does . . . which is well-pleasing to God.”⁷⁸

At the same time, while Protestant theologians continued to understand human dignity to be grounded in the creation of all human beings in the Divine image, they tended to place more emphasis on the fallenness of human nature and its dependence on divine grace for its restoration than their Catholic counterparts. John Calvin (1509–64), for example, certainly affirmed the “primeval dignity”⁷⁹ and “original excellence and nobility”⁸⁰ given to human beings at their creation, but he also reflected on the “sad spectacle of our ignominy and corruption.”⁸¹ The “hereditary corruption and depravity of [human] nature,” which Calvin, following Augustine, called “original sin,” characterizes all human beings without distinction.⁸² Calvin taught that due consideration of our fallen state should humble us and inspire us with “new desires to seek after God, in whom each may regain those good qualities of which all are found to be utterly destitute,” and thereby be “raised to royal dignity.”⁸³ Like many theologians before him, Calvin understood the “highest perfection of dignity” to subsist in

77. John Witte, *Between Sanctity and Depravity: Human Dignity in Early Protestant Perspective*, in *IN DEFENSE OF HUMAN DIGNITY: ESSAYS FOR OUR TIMES* 119 (Robert P. Kraynak & Glenn Tinder eds., 2003) [hereinafter Witte, *Between Sanctity and Depravity*].

78. Luther, *Concerning Christian Liberty*, *supra* note 73, at 122.

79. JOHN CALVIN, *THE INSTITUTES OF THE CHRISTIAN RELIGION*, at II.I.3, at 212 (Henry Beveridge trans., Christian Classics Ethereal Library (c. 2007)) (1536), [hereinafter CALVIN, *INSTITUTES* (Beveridge trans.)], <https://www.ccel.org/ccel/calvin/institutes.html>.

80. JOHN CALVIN, *INSTITUTES OF THE CHRISTIAN RELIGION*, at II.VI.1, at 340 (Ford Lewis Battles trans., Westminster Press 1960) (1536).

81. CALVIN, *INSTITUTES* (Beveridge trans.), *supra* note 79, II.I.1, at 210.

82. *Id.* II.I.8, at 217. As the Catholic publicist G.K. Chesterton (no friend of Calvin) once quipped, original sin is not a doctrine of the superiority of one category of human being over another; rather, it encourages a sense of “pathos and brotherhood, and a thunder of laughter and pity; for only with original sin we can at once pity the beggar and distrust the king.” GILBERT K. CHESTERTON, *ORTHODOXY* 292 (1909).

83. CALVIN, *INSTITUTES* (Beveridge trans.), *supra* note 79, II.I.3, at 211 & II.VII.1, at 301.

our union with God,⁸⁴ recalling the creation of man as the “preeminent specimen of Divine wisdom, justice, and goodness.”⁸⁵ He also taught that it is the “beauty and dignity” of the Divine image in human beings that motivates us to treat others with justice and forbearance.⁸⁶

John Witte has argued that this belief in the equal dignity of all Christian believers was an important impetus for later Protestant jurists to translate the moral duties owed by all human beings to one another into the correlative rights of every human person.⁸⁷ Thus, the commands contained in the Decalogue that we must not kill, commit adultery, steal, or bear false witness against our neighbor⁸⁸ were translated into the corresponding rights of our neighbor to life, property, fidelity, and reputation.⁸⁹ One example of this tendency is seen in the work of the Calvinist jurist Johannes Althusius (1557–1638), who understood adherence to the correlative duties and rights of the Decalogue to be a matter of human dignity.

Like many Protestant jurists, Althusius considered the Ten Commandments to set forth the organizing principles of the ideal Reformed Christian polity.⁹⁰ Following traditional exegesis, he distinguished between the “First Table” of the Decalogue as containing the duties human beings owe to God and the “Second Table” as stipulating the duties we owe to each other, but he further argued that the duties of the Second Table imply the existence of correlative rights.⁹¹ Thus, for example, the duty not to steal the property of one’s neighbor necessarily entails the right of our neighbor to the possession of his lawful property. Moreover, Althusius considered that the underlying purpose of the correlative

84. *Id.* II.XII.6, at 405.

85. 1 JOHN CALVIN, COMMENTARIES ON THE FIRST BOOK OF MOSES CALLED GENESIS § 1(26) (John King trans., 1847) (1578), <https://ccel.org/ccel/c/calvin/calcom01/cache/calcom01.pdf>.

86. CALVIN, INSTITUTES (Beveridge trans.), *supra* note 79, III.VII.6, at 580.

87. Witte, *Between Sanctity and Depravity*, *supra* note 77, at 133–34.

88. Exodus 20:13–16; Deuteronomy 5:17–20.

89. Witte, *Between Sanctity and Depravity*, *supra* note 77, at 133–34.

90. For more detail, see WITTE, REFORMATION OF RIGHTS, *supra* note 72, at 143–207.

91. JOHANNES ALTHUSIUS, POLITICA: AN ABRIDGED TRANSLATION OF POLITICS METHODICALLY SET FORTH AND ILLUSTRATED WITH SACRED AND PROFANE EXAMPLES at X.6, at 80–81 (Frederick S. Carney ed. & trans., Liberty Fund, Inc. 1995) (1603) [hereinafter ALTHUSIUS, POLITICA (Carney trans.)]; JOHANNES ALTHUSIUS, POLITICA METHODICE DIGESTA ET EXEMPLIS SACRIS ET PROFANIS ILLUSTRATA (1603) (Latin text version) [hereinafter ALTHUSIUS, POLITICA (Latin text)].

rights and duties of the Decalogue was to protect and preserve human dignity (*conservanda dignitate hominis*).⁹² Reflecting on the duties we owe to our neighbors, he observed:

Thus we render to him honor, authority, dignity, preeminence, and, indeed, the right of family; nor do we, on the contrary, despise him or hold him in contempt, the fifth precept of the Decalogue. His life is to be defended and conserved, and his body may not be injured, hurt, struck, or treated in any inhumane way whatever, nor may the liberty and use of his body be diminished or taken away, the sixth precept. His chastity is to be left intact, free from fornication, and may not be taken away in any manner whatever, the seventh precept. His goods and their possession, use, and ownership are to be conserved, and they may not be injured, diminished, or taken away, the eighth precept. His reputation and good name are to be protected, and they may not be taken away, injured, or reduced by insults, lies, or slander, the ninth precept. And so one may not covet those things that belong to another, either by deliberation or by passion, but everything our neighbor possesses he is to use and enjoy free from the passion of our concupiscence and perverse desire.⁹³

Notably, in Althusius's analysis, the ninth precept was particularly directed to the preservation of the reputation and good name of one's neighbor. Elsewhere he observed that the rights enjoyed by one's neighbor include the following:

[F]irst, his natural life, including the liberty and safety of his own body. The opposite of these are terror, murder, injury, wounds, beatings, compulsion, slavery, fetters, and coercion. Secondly, the neighbor possesses his reputation, good name, honor, and dignity, which are called the "second self" of man. Opposed to them are insult, ill repute, and contempt. . . . Also pertaining to this category are the right of family, and the right of citizenship that belongs to some. Thirdly, a man has external goods that he uses and enjoys, opposed to which are the corruption, damage, and impairing of his goods in any form, as well as their plundering or robbery, and any violation of their possession or artificial impediment to their use.⁹⁴

In this discussion, dignity is something both rightly possessed by and properly accorded to one's neighbor, alongside his honor

92. ALTHUSIUS, *POLITICA* (Latin text), *supra* note 91, XVI, at 206.

93. ALTHUSIUS, *POLITICA* (Carney trans.), *supra* note 91, X.7, at 81.

94. *Id.* X.6, at 80–81.

and reputation, and the duty to uphold the dignity of our neighbor is indissolubly associated with the full ensemble of rights to which he is personally entitled.

Althusius presented much of this material in the context of his discussion of the civil order of the commonwealth. This civil order, he said, provides the political context in which “the necessary and convenient means for carrying on a common life of justice together are communicated” among the members of a society.⁹⁵ However, for Althusius, the members of the commonwealth are not merely individuals. The commonwealth is a mixed society consisting of “many symbiotic associations and particular bodies . . . brought together under one right.”⁹⁶ These associations and bodies are variously “private, natural, necessary, and voluntary” as well as “public,” and they include “families, cities, and provinces.”⁹⁷ The reason for this is that, according to Althusius, human society develops “by the definite steps and progressions of small societies,”⁹⁸ for families, cities, and provinces “existed by nature prior to realms, and gave birth to them.”⁹⁹

By Althusius’s account, our first and most fundamental associations are the families into which we are born and within which we are nurtured. The deep personal bonds of this “most intense” form of society constitute “the seedbed of every other symbiotic association.”¹⁰⁰ It follows that husband and wife will share the same family name, the same rank (*dignitatum*), the same status, and the same condition.¹⁰¹ Next, and beyond the natural and necessary bonds of families and kinship groups, the second important category of human association are the civil and voluntary associations that Althusius called *collegia*.¹⁰² He considered this category of human sociability to be very various and extensive:

[T]here are collegia of bakers, tailors, builders, merchants, coiners of money, as well as philosophers, theologians, government officials, and others that every city needs for the proper functioning of its social life. Some of these collegia are

95. *Id.* X.1, at 79.

96. *Id.* IX.1, at 66.

97. *Id.*

98. *Id.* V.1, at 39.

99. *Id.* IX.1, at 66.

100. *Id.* II.14, at 28.

101. *Id.* II.12, at 28.

102. *Id.* IV.24, at 38.

ecclesiastical and sacred, instituted for the sake of divine things; others are secular and profane, instituted for the sake of human things. The first are collegia of theologians and philosophers. The second are collegia of magistrates and judges, and of various craftsmen, merchants, and rural folk.¹⁰³

These associations, although voluntary, constitute the building blocks of every political community. The first of the specifically political associations, for Althusius, is the city, which he observed is “an association formed by fixed laws and composed of many families and collegia living in the same place.”¹⁰⁴ Here there is again variety and a progression from small and local to relatively larger and more extended, in a succession of nested distinctions between hamlets, villages, towns, and cities,¹⁰⁵ for even the fully developed city is conceived as an association of hamlets and villages.¹⁰⁶ Next, there is the province, which “contains within its territory many villages, towns, outposts, and cities united under the communion and administration of one right (*ius*).”¹⁰⁷ And finally, there is the “universal and major public association,” which is formed when “many cities and provinces obligate themselves to hold, organize, use, and defend, through their common energies and expenditures, the right of the realm (*ius regni*) in the mutual communication of things and services.”¹⁰⁸

All of these associations, from the private and voluntary to the public and compulsory, despite their diversity, are subject to the same principle of symbiosis, which is an organic-like relationship that involves “mutual communication of whatever is useful and necessary for the harmonious exercise of social life.”¹⁰⁹ Thus: “[c]ommunication among citizens of the same community for the purpose of self-sufficiency and symbiosis pertains to things, services, right, and mutual concord.”¹¹⁰ Nonetheless:

Concord is fostered and protected by fairness (*aequabilitas*) when right, liberty, and honor are extended to each citizen according to the order and distinction of his worth and status.

103. *Id.*

104. *Id.* V.8, at 40.

105. *Id.* V.28, at 41.

106. *Id.* V.41, at 42.

107. *Id.* VII.1, at 51.

108. *Id.* IX.1, at 66.

109. *Id.* I.2, at 17.

110. *Id.* VI.15, at 46.

For it behooves the citizen to live by fair and suitable right with his neighbor, displaying neither arrogance nor servility, and thus to will whatever is tranquil and honest in the city. Contrary to this fairness is equality (*aequalitas*), by which individual citizens are levelled among themselves . . .¹¹¹

In this complex way, Althusius considered *dignitas* to be foundational to the rights of all human beings—a quality enjoyed by all equally—and yet it was also, in another sense, a quality that might be variously distributed within a society in proportion to the specific roles and offices held by each member. Dignity and honor are owed to everyone within the commonwealth, but there are also degrees of authority, dignity, and honor distributed among citizens in order to preserve proper order.

The term *dignitas* thus continued to retain much of the varied and relative meaning it had in classical Latin, and it was therefore used to designate what today might be called the special “honors” that are accorded to individuals in view of their particular roles or contributions to the good of the community. Also, importantly, Althusius understood the concept of dignity in the context of a rich social ontology in which not only individuals, but also families, *collegia*, cities, and provinces, are the constituent members of the political order as a whole. Those who hold office within the commonwealth are therefore bound to exercise their powers in accordance with their particular vocations and duties.¹¹² The due performance of these responsibilities (*munera*) are the “bonds and nerves,” he explained, “by which so great a conjunction of diverse bodies is held together and conserved.”¹¹³

V. CATHOLIC AND ORTHODOX DIGNITY

Russell Hittinger has drawn attention to similar themes in contemporary Catholic social teaching, particularly in relation to what has become known as the *munus regale*—the function, mission, gift, or vocation of ruling. The *munus regale*, Hittinger explains, originated in theological reflection on the offices of Christ as prophet, priest, and king, and the recognition that all Christians

111. *Id.* VI.47, at 49.

112. *Id.* XVIII.43, at 98–99.

113. *Id.* XIV.1–2, at 87.

participate in these *munera* by virtue of their baptism.¹¹⁴ All individual human beings are the recipients of manifold divine gifts or talents which constitute their calling or vocation and they exercise these *munera* in all of the diverse spheres of life, such that even the associations themselves—families, corporations, churches, states—are said to have *munera*, together with the rights (*ius*) necessary in order to fulfil their distinctive callings.¹¹⁵ As a consequence, human rights find their rationale in the *munera* and are expressed through a plurality of social forms.¹¹⁶

The totalitarian regimes of the twentieth century attempted to deprive these societies—families, trade unions, religious orders, and so on—of their legal personality and independence. Pius XI (1922–39) responded by making clear, as Hittinger explains, that rights are not derived from human nature “abstractly considered” but rather flow from a human nature already bearing and exhibiting a social ontology. Accordingly, negative rights (*immunities*) are not the logical starting point of rights, but rather exist in order to safeguard antecedent *munera*. The common good thus has a “manifold organicity.”¹¹⁷ On this view, the role of the state is not primarily distributive, but rather facilitative and supportive. The state recognizes and supports an existing distribution of *munera* that is already contributing to the common good in manifold ways—through families, schools, hospitals, charities and so forth. It is in this light that the principle of subsidiarity must be understood.¹¹⁸ Every human being—as a person created in the *imago Dei*—has been given a unique set of gifts and is called to a particular vocation which is inherently relational and social. And it is in this that human dignity consists. As Benedict XVI put it in *Caritas in Veritate*, “[s]ubsidiarity respects personal dignity by recognizing in the person a subject who is always capable of

114. Russell Hittinger, *Social Pluralism and Subsidiarity in Catholic Social Doctrine*, in 16 *ANNALES THEOLOGICI* 385, 388–89, 390, 405, 407 (2002); POPE PAUL IV, DOGMATIC CONSTITUTION ON THE CHURCH: *LUMEN GENTIUM* §§ 31, 36 (1964); CATECHISM OF THE CATHOLIC CHURCH §§ 436, 783–86 (Liberia Editrice Vaticana ed. 1997) [hereinafter CATECHISM]; JOHN PAUL II, POST-SYNODAL APOSTOLIC EXHORTATION: *CHRISTIFIDELES LAICI* § 14 (1988); see also KANTOROWICZ, *supra* note 43, 489–91.

115. Hittinger, *supra* note 114, 390–91.

116. *Id.* at 391.

117. *Id.* at 393.

118. CATECHISM, *supra* note 114, at §§ 1883–85.

giving something to others.”¹¹⁹ And as the Second Vatican Council taught, the human dignity that is the foundation of all human rights is a quality that reflects the social and communal nature of human beings.¹²⁰

In *Dignitatis Humanae* (1965), Pope Paul VI articulated the judgement of the Vatican Council that contemporary efforts to secure human dignity through constitutional limits on the powers of government and protections of the rightful freedoms of persons and associations are “greatly in accord with truth and justice.”¹²¹ The Pope emphasized, however, that this must be understood as a “responsible freedom,” grounded on the dignity of the human person as known through the revealed word of God and by reason itself, and appropriate to our “social nature.”¹²² The encyclical emphasized that this social nature of human beings gives rise to the formation of several social organizations, especially religious communities and families, alongside many other “social groups.”¹²³

This accent on the social and especially communal orientation of human nature is even more pronounced in Eastern Orthodox teachings on human dignity. The Russian Orthodox Church’s *Basic Teaching on Human Dignity, Freedom and Rights* (2008) grounds human dignity in the creation of human beings in the divine image and the fact that the Lord Jesus Christ assumed human nature in its fullness except for sin.¹²⁴ Citing Gregory of Nyssa, the teaching of the Church is that human beings realize their fullest dignity in being filled with the goodness of God.¹²⁵ Accordingly, while a “morally undignified life does not ruin the God-given dignity ontologically,” it “darkens it so much as to make it hardly discernible.”¹²⁶ This darkening of the divine image—or else its

119. BENEDICT XVI, ENCYCLICAL LETTER: *CARITAS IN VERITATE* para. 57 (2009), http://www.vatican.va/content/benedict-xvi/en/encyclicals/documents/hf_ben-xvi_enc_20090629_caritas-in-veritate.html. “[T]he contribution of disciplines such as metaphysics and theology is needed if man’s *transcendent dignity* is to be properly understood.” *Id.* para. 53 (emphasis added).

120. See PAUL VI, DECLARATION ON RELIGIOUS FREEDOM: *DIGNITATIS HUMANA*E (1965), http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decl_19651207_dignitatis-humanae_en.html.

121. *Id.* para. 1.

122. *Id.* paras. 2–3.

123. *Id.* paras. 4–6.

124. RUSSIAN ORTHODOX CHURCH, *BASIC TEACHING ON HUMAN DIGNITY, FREEDOM AND RIGHTS* § I.1, at 1 (2008).

125. *Id.* § I.3, at 1 (citing NYSSA, *ON THE CREATION OF MAN*, ch. XVI).

126. *Id.* § I.4, at 2.

illumination—depends on the “self-determination of the free individual,” for freedom is “one of the manifestations of God in human nature.”¹²⁷ And yet freedom of choice is not an “absolute or ultimate value,” for it ought to be placed “at the service of human well-being.”¹²⁸ The abuse of freedom through the choice of an immoral way of life “will ultimately destroy the very freedom of choice as it leads the will to slavery by sin.”¹²⁹ Accordingly, there are two freedoms, both of which should be guiding principles of a society: “Free adherence to goodness and the truth is impossible without the freedom of choice, just as a free choice loses its value and meaning if it is made in favour of evil.”¹³⁰

This reasoning gives rise to what appears to be a point of departure from Catholic teaching on the topic.¹³¹ While the Russian Orthodox Church affirms that “every individual is endowed by God with dignity and freedom,” it also insists that human rights “cannot be superior to the values of the spiritual world.”¹³² A society should therefore order its life in a manner that takes into account both human interests and divine truth; human rights “should be harmonized with the norms of [religious] morality.”¹³³ Even more pointedly: human rights “should not contradict love for one’s homeland and neighbours.”¹³⁴ Particular civilizations “ought not to impose their own way of life on other civilizations under the pretext of human rights protection,”¹³⁵ and human rights “should not be used to justify any encroachment on religious holy symbols things, cultural values and the identity of a nation.”¹³⁶ There are diverse traditions of interpretation of human rights in particular nations, and international human rights should respect this.¹³⁷ Thus, while each individual should be protected from any forcible imposition of religious convictions and enjoy an “autonomous space where his conscience remains the absolute master,” this does

127. *Id.* § II.1, at 2.

128. *Id.* at 3.

129. *Id.* § II.2, at 3.

130. *Id.*

131. Mark L. Movsesian, *Of Human Dignities*, 91 NOTRE DAME L. REV. 1517, 1524–25, 1536–39, 1546–47 (2016).

132. RUSSIAN ORTHODOX CHURCH, *supra* note 124, §§ III.1–2, at 3–4.

133. *Id.* §§ III.2–3, at 4–5.

134. *Id.* § III.4, at 5.

135. *Id.*

136. *Id.* § III.5, at 5.

137. *Id.* § IV.1, at 6.

not require “religious neutrality” or “indifference” to religion by the state.¹³⁸ While all citizens must be equal before the law regardless of their religion, the Russian Orthodox Church teaches that a society may freely determine the extent to which the state may cooperate with various religious communities, depending on their “traditional presence” or “contribution to the history and culture of the country.”¹³⁹

VI. MODERN DIGNITY

Many modern conceptions of human rights downplay the social embeddedness of the human person and disassociate the concept of human dignity from the metaphysical and teleological context in which Christian theology and anthropology have placed it. Immanuel Kant’s (1724–1804) conception of human dignity was an important part of this development, although in some ways, it reflected the imprint of older ideas on his thought.¹⁴⁰ In particular, his focus on practical reason—even if for the purpose of engaging in a critique of it—recalls the long tradition, reflected in Gregory of Nyssa, Leo the Great, Bernard of Clairvaux, and Thomas Aquinas, that human dignity is intimately associated with our rational nature and capacity to make moral choices.¹⁴¹ Kant thus insisted that it is only “in so far as it is capable of morality” that humanity has dignity.¹⁴² Moreover, despite his far-reaching criticisms of metaphysics generally,¹⁴³ Kant developed what he was prepared to call a “groundwork” for a metaphysics of morals.¹⁴⁴ However, what

138. *Id.* § IV.3, at 6–7.

139. *Id.*

140. See generally Christopher J. Insole, *A Thomistic Reading of Kant’s Groundwork of the Metaphysics of Morals: Searching for the Unconditioned*, in 31(2) MODERN THEOLOGY 284 (2015).

141. To be more precise, Kant proposed a critique of *pure* practical reason. See IMMANUEL KANT, *GROUNDWORK OF THE METAPHYSICS OF MORALS* (Mary Gregor & Jens Timmermann trans., Cambridge University Press 2011) (1785).

142. *Id.* IV.435, at 99 (“[M]orality is the condition under which alone a rational being can be an end in itself; because it is possible only by this to be a legislating member in the kingdom of ends. Thus morality and humanity, in so far as it is capable of morality, is that which alone has dignity.”).

143. See generally IMMANUEL KANT, *CRITIQUE OF PURE REASON* (F. Max Muller trans., 1922) (1781).

144. KANT, *supra* note 141, IV.391, at 10–11 & IV.426, at 80–81 (“[O]ne must, however reluctantly, take a step outside, namely into metaphysics, if into a region of it that differs from that of speculative philosophy, namely into the metaphysics of morals.”). On the various senses in which Kant used the term, see generally DIETER SCHÖNECKER &

he meant by metaphysics in this context was not what it had meant in medieval philosophy. Kant was insistent that the principles of morality are not to be derived from our knowledge of human nature, let alone divine revelation, but are rather to be found in “pure[ly] rational concepts” known *a priori* without resort to anthropology or theology.¹⁴⁵ This metaphysics of morality entailed an individualization of human dignity in two correlative ways: first, in his concept of each human being as morally “self-legislating,”¹⁴⁶ and second, in his understanding of each human being as an “end in itself.”¹⁴⁷ For Kant, human freedom is “the key to the definition of the autonomy of the will,” and this “autonomy” is “the ground of the dignity of . . . human . . . nature.”¹⁴⁸ For “the dignity of a rational being” consists in its obeying “no law other than that which at the same time it itself gives.”¹⁴⁹

Kant’s theory should not be seen as specifically endorsing the view that each individual is free to make up his own morality in some radically subjective sense.¹⁵⁰ On his account, the individual does not have the right simply “to do as one chooses,”¹⁵¹ for the categorical imperative imposes a duty that binds the rational will to act only in a way that treats humanity—in one’s own person as well as in the person of any other—as an end, and never as a means to some other end.¹⁵² However, as Hans Urs von Balthasar has observed, although Kant demanded that the other person must always be respected, “the absoluteness of the person was anchored simply in his ethical freedom” and, consequently, the “fundamental interrelatedness of persons” that had been developed within

ALLEN W. WOOD, IMMANUEL KANT’S “GROUNDWORK FOR THE METAPHYSICS OF MORALS”: A COMMENTARY (Nicholas Wood trans., 2015).

145. KANT, *supra* note 141, IV.410, at 48–49.

146. *Id.* IV.431, at 90–91.

147. *Id.* IV.428–9, at 84–87.

148. *Id.* IV.436, at 100–01 & IV.446, at 120–21.

149. *Id.* IV.434, at 96–97 & IV.440, at 108–09. The opposite of autonomy is heteronomy, which exists whenever the will is subjected to something outside the will, even some “good” property of an object external to the will. In such a case, “[t]he will does not give itself the law, but the object, by its relation to the will gives the law to it.” *Id.* IV.441, at 110–11.

150. SCHÖNECKER & WOOD, *supra* note 144, at 17–18.

151. Michael Rosen, *Dignity: The Case Against*, in UNDERSTANDING HUMAN DIGNITY 143, 150 (Christopher McCrudden ed., 2013).

152. KANT, *supra* note 141, IV.429, at 86–87. Kant said that “rational beings are called *persons*, because their nature already marks them out as ends in themselves.” *Id.* IV.428, at 84–85. Kant also explained that they are called this because all rational beings are universal legislators. *See id.* IV.438, at 104–05.

Christian Trinitarian theology was lost.¹⁵³ It has accordingly become increasingly common in contemporary Western societies to focus all attention on each human person as an isolated, autonomous individual. Such a vision was articulated, for example, by the U.S. Supreme Court when it referred to the “right of the individual” to make personal choices “central to personal dignity and autonomy” – a conception of liberty which at its heart was said to involve “the right to define one’s own concept of existence, of meaning, of the universe, and of the mystery of human life.”¹⁵⁴ Likewise, a leading judgment of the Canadian Supreme Court adopted – under the guise of “the inherent dignity and inviolable rights of the human person” – a conception of freedom of religion described to be “personal” and “subjective,” and therefore “integrally linked with an individual’s self-definition and fulfilment” and “a function of personal autonomy and choice.”¹⁵⁵ Aharon Barak, summarizing a line of decisions of the Supreme Court of Israel, has similarly written that human dignity “extends to all those activities in which human beings must be recognized as free agents, developing their body and mind according their own free will.”¹⁵⁶ Observing, moreover, that individuals must also live within society, he went on to characterize the social context as involving “mutual relationships between the individual and other individuals, and between them and the state.”¹⁵⁷ Notably, however, he made no mention of intermediate groups or associations between the individual and the state. This idea that human dignity is essentially about the realization of one’s authentic self is today widespread in Western societies. Many lawyers, as Jeremy Waldron has pointed out, simply assume that legal references to “dignity” must convey this derivatively Kantian understanding of the concept, but one in which self-authenticity has no necessary relationship to the morality of one’s choices.¹⁵⁸

Taken to their logical conclusions, such conceptions of individual autonomy have four important implications for the

153. Hans Urs von Balthasar, *On the Concept of Person*, 13 COMMUNIO: INT’L CATHOLIC REV. 18, 24 (1986).

154. *Planned Parenthood v. Casey*, 505 U.S. 833, 851 (1992) (emphasis in original).

155. *Syndicat Northcrest v. Amselem*, [2004] 2 S.C.R. 551, 576–77 (Can.).

156. Aharon Barak, *Human Dignity: The Constitutional Value and the Constitutional Right*, in UNDERSTANDING HUMAN DIGNITY, *supra* note 151, at 368.

157. *Id.* at 369.

158. JEREMY WALDRON, DIGNITY, RANK, AND RIGHTS 27 (2012).

concept of human dignity. First, conceiving human rights as abstract *liberty* rights tends to hollow out the concept of dignity. Dignity comes to be seen as autonomy, meaning nothing more than the right to exercise an array of freedoms in any manner and in pursuit of any goals—provided this does not interfere with the rights of others. On this view, the concept of dignity is hollowed out because it is divested of any essential connection to duty, virtue, or teleology, except the duty not to interfere with the rights of others. Second, conceiving human rights as abstract *equality* rights tends to flatten the concept of dignity. Dignity comes to be seen as equality, meaning nothing more than a right to equal treatment, without discrimination, understood in both formal and substantive terms. On this view there can be no gradations of dignity, no distinctions of honor, deference, or moral expectation accorded to persons on the basis of their character, office, or role. Third, conceiving of human rights as abstract *individual* rights tends to atomize the concept of dignity. Dignity comes to be seen as nothing more than the liberty and equality of the individual considered in abstraction from the associations, communities, and groups in which each individual is situated. Such groups, associations, and relationships are merely constructs of individual human choices. Fourth, and most radically, grounding human rights in individual choices threatens their expansion into expressions of individual *will* unlimited by the rights of others. For when the individual will is absolutized, the end point is Friedrich Nietzsche's will to power—a world in which “man in himself . . . possesses neither dignity, nor rights, nor duties.”¹⁵⁹

VII. POSTMODERN DIGNITY

The writings of Friedrich Nietzsche (1844–1900) are a fitting place to complete a discussion of the history of human dignity, for it is in his theory of the will to power that the very concept of the equal dignity of all human beings is rejected as a carryover from a medieval and even modernist past profoundly shaped by Christian theology and philosophy. In his early and unpublished preface to a projected book, *The Greek State* (1871), Nietzsche mocked all talk of the “dignity of man” and the “dignity of labour.”¹⁶⁰ The political economy of the Greek city states, he pointed out, depended on a

159. Nietzsche, *supra* note 2, at 45.

160. *Id.* at 38.

multitude of slaves whose forced labor enabled a privileged class of citizens the leisure to devote themselves to higher pursuits. Nietzsche argued that the modern state was no different, despite its professed belief in human dignity and the protection of universal human rights. The Greeks, he insisted, had no need for such "conceptual hallucinations."¹⁶¹ They frankly disparaged the utter ignominy of labor and organized their societies so that they met the physical needs of their citizen elites. Modern societies are similarly slavish, Nietzsche argued, but they sublimate this knowledge by attaching themselves to such "phantoms" as the "equal rights of all," the "fundamental rights of man," and the "dignity of work."¹⁶² For Nietzsche, life is a struggle for existence in which only the strong survive. Accordingly, "the overwhelming majority must," he argued, "be slavishly subjected to life's struggle," so that the privileged few can pursue the good life.¹⁶³ "[A] rainbow of pitying love and of peace" may have appeared "with the first radiant rise of Christianity," but an "insatiable craving for existence" lies in the essence of every powerful religion.¹⁶⁴ "[T]o the victor" he said, "belongs the vanquished," for "[p]ower gives the first *right* and there is no right, which at bottom is not presumption, usurpation, violence."¹⁶⁵ The modern state may trumpet the "dignity of man," but its true origin is not justice but rather "devastated lands, destroyed cities, savaged men, consuming hatred of peoples!"¹⁶⁶ In truth, the state concentrates the "natural *bellum omnium contra omnes*"¹⁶⁷ of human existence into "a terrible gathering of war-clouds," which are discharged in less frequent but more intense conflagrations of violence between nations, for "war is just as much a necessity for the state as the slave is for society."¹⁶⁸ So far from the state being based on the universal "dignity of man," Nietzsche argued that everyone within this "martial society" must be subjected to, and become instruments of, the "military genius."¹⁶⁹ The only "dignity" left to the individual human being lies in being

161. *Id.* at 39.

162. *Id.*

163. *Id.* at 40.

164. *Id.* at 40–41.

165. *Id.* at 41–42.

166. *Id.* at 42.

167. *Id.* at 43 (meaning the "war of all against all").

168. *Id.* at 43–44.

169. *Id.* at 45.

made a “tool” of this genius.¹⁷⁰ For “man in himself . . . possesses neither dignity, nor rights, nor duties,” but is only a “wholly determined being” serving powers greater than himself.¹⁷¹

It is possible to discern in Nietzsche’s man of “genius” the *Übermensch* of his later writings—the creator of new values within the moral vacuum left to modern man by the scourge of nihilism. As Andrew Huddleston has argued, Nietzsche wrote of a particular kind of dignity, but it was dignity reserved for the few who have the will to power—the courage, strength, and determination to pursue great things. Only in a very secondary sense can ordinary people participate in a kind of derivative dignity by being subservient instruments of the extraordinary few who are truly worthy.¹⁷² Against the teaching of Christianity that “everyone as an ‘immortal soul’ has equal rank with everyone else,”¹⁷³ Nietzsche thus envisaged an inherently oligarchic culture in which there is a “long ladder of an order of rank and difference in value between man and man.”¹⁷⁴ And Nietzsche was very clear about the theological grounds upon which Christianity had taught the inherent equality of all men. In his words:

At the bottom of Christianity is the rancor of the sick, instinct directed *against* the healthy, *against* health itself. Everything that has turned out well, everything that is proud and prankish, beauty above all, hurts its ears and eyes. Once more I recall the inestimable words of Paul: “The *weak* things of the world, the *foolish* things of the world, the *base* and *despised* things of the world hath God chosen.” This was the formula; *in hoc signo* the decadence triumphed. God on the cross—are the horrible secret thoughts behind this symbol not understood yet? All that suffers, all that is nailed to the cross, is *divine*. All of us are nailed to the cross, consequently *we* are divine.¹⁷⁵

For Nietzsche, the answer was a transvaluation of values. Henceforth, the “good” must be whatever “heightens the feeling of

170. *Id.*

171. *Id.* (internal quotations omitted)

172. See Andrew Huddleston, *Consecration to Culture: Nietzsche on Slavery and Human Dignity*, 52 J. HIST. PHIL. 135, 135 (2014).

173. FRIEDRICH WILHELM NIETZSCHE, *THE ANTICHRIST* § 43 (1895), *reprinted in* THE PORTABLE NIETZSCHE 569, 618 (Walter Kaufmann ed. & trans., Penguin Books 1988).

174. FRIEDRICH WILHELM NIETZSCHE, *BEYOND GOOD AND EVIL* § 257, 201 (Walter Kaufmann trans., Vintage Books 1966) (1886).

175. NIETZSCHE, *supra* note 173, § 51, at 634.

power in man, the will to power, power itself," while "evil" is whatever "springs from weakness."¹⁷⁶ The most harmful of all vices, in his view, is any manifestation of "pity for all the failures and all the weak"—that is the very essence of Christianity.¹⁷⁷ The doctrine of the "equality of souls before God" was a "falsehood," and an "explosive concept" that had diverted human life from the glorious conquests of ancient Greece and Rome.¹⁷⁸

CONCLUSION

Nietzsche's dark vision appears as a sudden rupture in the narrative of human dignity sketched in this article. Nietzsche plainly rejected what Brian Leiter has called the "egalitarian premise of all contemporary moral and political theory—the premise, in one form or another, of the equal worth or dignity of each person."¹⁷⁹ As Andrew Huddleston has put it, "Christian and Kantian worth and dignity is something humans have equally and innately. Nietzschean worth and dignity, by contrast, is inegalitarian and achieved: humans do not have it equally; they must earn it, and earn the respect it merits, by what they do."¹⁸⁰

On this view, Kant's liberal account of human dignity is on a par with the Christian view. However, this is to overestimate the distance between Kant and Nietzsche and to mischaracterize the difference between Kant and Christianity. As David Cartwright has pointed out, while Kant and Nietzsche entertained different conceptions of the human will, they both treated the autonomy of the will as their "central ethical conception."¹⁸¹ Both expressed disdain for what they conceived to be the Christian ethic of "pity," describing it as an "infection."¹⁸² Pity is pathological, they maintained, because it undermines the autonomy of the self. And yet, Nietzsche went much further than Kant. He rejected the metaphysics upon which Kant continued to rely, albeit tacitly, as

176. *Id.* § 2, at 570.

177. *Id.*

178. *Id.* § 62, at 655.

179. BRIAN LEITER, *NIETZSCHE ON MORALITY* 290 (2d ed. 2015).

180. Huddleston, *supra* note 172, at 143.

181. David E. Cartwright, *Kant, Schopenhauer, and Nietzsche on the Morality of Pity*, 45 J. HIST. IDEAS 83, 83 (1984).

182. FRIEDRICH WILHELM NIETZSCHE, *THE WILL TO POWER* § 368, at 199 (Walter Kaufmann & R.J. Hollingdale trans., Vintage Books 1968) (1901).

Arthur Schopenhauer argued.¹⁸³ Alasdair MacIntyre has correspondingly observed that Kant's theory is best understood to be a "ghost" of an older conception of divine law and human nature grounded in a metaphysics and teleology that is alien to the prevailing beliefs of modernity.¹⁸⁴ According to MacIntyre, Nietzsche's will to power is one of the only two genuine theoretical alternatives confronting anyone attempting to understand the moral condition of our contemporary culture.¹⁸⁵ The other is an Aristotelianism in which we "honor others . . . in virtue of something that they are or have done to merit the honor."¹⁸⁶ I take MacIntyre to have been very deliberate in his language here. Human dignity is a basic feature of all human beings by virtue of who they "are," but it is also a function of what they have "done."

As Vladimir Lossky once pointed out, our languages lack the words and our minds lack the concepts to adequately denote or conceive what it means to be a person.¹⁸⁷ For there is always, as Rowan Williams puts it, "the enormous fact of my being here," a person who is not only the sum of his attributes and experiences, but also an active agent who carries those attributes and experiences, and who responds, activates, and develops them in deliberate ways.¹⁸⁸ There is a real question, however, whether our modern commitments to human dignity, expressed for example, in the Universal Declaration on Human Rights (1948),¹⁸⁹ will be able to survive the "death of God" in our cultures. In an important dialogue with Cardinal Joseph Ratzinger, Jürgen Habermas candidly acknowledged that there are real questions to be asked whether an entirely secular philosophy can produce or sustain a commitment to human rights and human dignity.¹⁹⁰ He pointed out

183. Cartwright, *supra* note 181, at 92–93 (recounting Schopenhauer's argument that Kant's key moral concepts – duty, law, obligation, command, etc. – lose all meaning when "separated from the theological hypothesis from which they came" (citing ARTHUR SCHOPENHAUER, *ON THE BASIS OF MORALITY* 55 (E.F.J. Payne trans., 1965) (1840))).

184. MacIntyre, *supra* note 5, at 111.

185. *Id.* at 110.

186. *Id.* at 116.

187. Lossky, *supra* note 27, at 120.

188. Rowan Williams, *What is a Person? Reclaiming Relationality in an Uncooperative Age*, ABC RELIGION & ETHICS (June 26, 2018, 12:20 AM), <https://www.abc.net.au/religion/what-is-a-person-reclaiming-relationality-in-an-uncooperative-ag/10094588>.

189. Nicholas Aroney, *The Social Ontology of Human Dignity*, in *THE CONCEPTUAL FOUNDATIONS OF HUMAN DIGNITY* (Barry Bussey & Angus Menuge eds., 2020).

190. CARDINAL JOSEPH RATZINGER & JÜRGEN HABERMAS, *DIALECTICS OF SECULARIZATION: ON REASON AND RELIGION* (Brian McNeil trans., 2006).

that modern Western philosophy has had to recognize its own “religious-metaphysical origins,” including the assimilation of certain distinctively Christian ideas that have left an enduring mark on many of the most important concepts in contemporary political and legal thought.¹⁹¹ Elsewhere he also observed that postmetaphysical thinking of the kind pioneered by Nietzsche “cannot cope on its own with the defeatism concerning reason which we encounter today both in the postmodern radicalization of the ‘dialectic of the Enlightenment’ and in the naturalism founded on a naive faith in science.”¹⁹² It will therefore be necessary, Habermas conceded, for our societies to make room for the “special power” of religious traditions to articulate the powerful moral intuitions that are necessary to sustain human dignity, particularly in respect of those most vulnerable.¹⁹³

From its earliest articulation, Christian reflection on human dignity has, with Gregory of Nyssa, affirmed that the “dignity of royalty” is a status that belongs to all human beings: the poor no less than the rich, the weak no less than the powerful.¹⁹⁴ Waldron is thus correct to urge us to maintain the ancient link between dignity and “noble rank or high office.”¹⁹⁵ A kind of “royal dignity” is an attribute of all human beings without distinction. As Leo the Great taught, all human beings share equally in the “high dignity” of being created in the image of God in “goodness and righteousness.”¹⁹⁶ Human dignity is most fully realized in lives that exhibit these qualities. We fail to live to our full potential in our fallen state, but we are raised to a double dignity through our union with God in Christ.¹⁹⁷ Our natural dignity needs to be conjoined, therefore, with both knowledge and virtue. As Bernard of

191. *Id.* at 38, 44.

192. JÜRGEN HABERMAS, *AN AWARENESS OF WHAT IS MISSING: FAITH AND REASON IN A POST-SECULAR AGE* 18 (Ciaran Cronin trans., 2010).

193. Jürgen Habermas, *Religion in the Public Sphere*, 14 EUR. J. PHIL. 1, 10 (2006). Waldron puts it more specifically when he expresses his conviction that “[t]he foundational work that *imago Dei* does for dignity is . . . indispensable for generating the sort of strong moral constraint associated with rights.” Jeremy Waldron, *The Image of God: Rights, Reason, and Order*, in *CHRISTIANITY AND HUMAN RIGHTS: AN INTRODUCTION* 216 (John Witte Jr. & Frank S. Alexander eds., 2010).

194. GREGORY OF NYSSA, *supra* note 23, § XXI, ¶4; GREGORY OF NYSSA, *supra* note 28, at 73–74.

195. WALDRON, *supra* note 158, at 30.

196. LEO I, *Sermon XXIV*, in 12 NICENE AND POST-NICENE FATHERS OF THE CHRISTIAN CHURCH, *supra* note 3223, at 135.

197. LEO I, *Sermon LXXIII*, in *id.* at 186; LEO I, *Sermon LXXVII*, in *id.* at 193.

Clairvaux put it: while dignity without knowledge is practically worthless, dignity without virtue is downright dangerous.¹⁹⁸ Human dignity is also an inherently relational, social quality of human beings. We are individuals, but we are persons in communion with each other. As Johannes Althusius taught, human dignity is realized as human beings engage in mutual communication of everything that contributes to social life.¹⁹⁹ And, as Russell Hittinger has explained, every human realizes their human dignity through the exercise of their gifts in community with others.²⁰⁰

198. BERNARD, *supra* note 45, ch. II, at 5.

199. ALTHUSIUS, *POLITICA* (Carney trans.), *supra* note 91, I.2, at 17.

200. Hittinger, *supra* note 114, at 390–91.

